French Claims in North America, 1500-59

Brian Slattery, Osgoode Hall Law School of York University

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FROM THE EARLIEST STAGES of modern European exploration in America, Spain and Portugal claimed exclusive rights there and sought to prevent other states from invading their asserted spheres. These pretensions stemmed from a remarkable series of Papal Bulls and from various acts of discovery, settlement, and conquest. They were defined, as between the two Iberian powers, by the Treaty of Tordesillas of 1494, which described a meridian lying 370 leagues west of the Cape Verde Islands. Portugal was to confine its activities to regions east of the divide, leaving the west to Spain. The line’s exact location was a matter of doubt, but it was often drawn through Newfoundland and Brazil.¹

These claims were extravagant, even absurd, but they could not be ignored, for Spain and Portugal were prepared to back them by force, exercised on certain occasions with considerable brutality. Throughout the sixteenth century they managed to maintain a virtual monopoly on New World colonization (if not on fishing and trade), though this was as much due to the lassitude of other powers as to their own efforts. Only in the next century did France and England succeed in establishing permanent settlements in North America, which were to lead in time to their domination of that continent.

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¹ The relevant documents are collected in F.G. Davenport, ed., European Treaties Bearing on the History of the United States and its Dependencies to 1648 (Washington 1917), 1, 9–198. The demarcation line can be seen on the Cantino chart of 1502; Lawrence C. Wroth, The Voyages of Giovanni da Verrazzano 1524–1528 (New Haven 1970), plate 3
Nevertheless historians, with that hindsight which views early failure in the reflected glow of later success, usually trace the origins of Canada to the initial explorations of England and France, with emphasis upon the French voyages of the early sixteenth century involving Verrazzano, Cartier, and Roberval. France, it is said, officially asserted territorial rights in North America at this era, based upon the discoveries and acts of taking possession of its emissaries, and that these claims were sustained, if in a somewhat desultory manner, until the successful colonizing efforts of the following century. The French crown is thought to have treated North America as unowned land open to appropriation, *territorium nullius*, rejecting the claims of Iberian aspirants and indigenous occupants alike. This allowed scope for its own pretensions, backed as they were by a minimal display of actual authority.\(^2\)

In fact, the evidence available to us – and it is far from complete – suggests a more complex and equivocal picture. While France was undoubtedly ready to dispute Iberian claims in the New World, there is remarkably little to show that it asserted exclusive rights of its own to the regions explored by its agents up to 1560. It is far from clear that the French crown in this era maintained that vast American territories might be won by the flourish of a standard, the planting of a cross, or the founding of small coastal settlements. Indeed, its stance vis-à-vis Spain and Portugal involved a repudiation of such notions. Nor do we encounter much evidence that France viewed America as, juridically, a desert land. Rather, it seemed prepared to recognize the fact that large areas were controlled by indigenous groups. This is not necessarily to say that it was more disposed than other European states to respect the rights of these communities, for we see signs of its willingness to contemplate their subjugation. But it candidly viewed the process as one of conquest, not pretending that it was dealing with a juridical vacuum. This suited France's own ends, for in challenging the assertions of Spain and Portugal it could point to the factual independence of indigenous groups in areas which these states claimed.

If these views are correct, they necessitate a reassessment of the significance of France's early efforts in North America. They also throw into doubt the general picture often painted of the official attitudes of European states to the New World at this period. But let us examine the evidence.

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From early in the sixteenth century, Breton and Norman ships braved the North Atlantic in voyages to Newfoundland fishing grounds, there joining Portuguese, Basque, and English vessels. But the French crown was slow to involve itself in American ventures. Not until 1523 did an officially-backed French mission embark under the Florentine, Giovanni da Verrazzano. This voyage was frustrated; however, in 1524 Verrazzano reached North America and succeeded in surveying the eastern seaboard from modern North Carolina to Newfoundland. The expedition was financed by Lyonese commercial interests and patronized by the French crown. However, no royal commission has been recovered and the explorer's official powers remain obscure.

Did Verrazzano claim for France the lands encountered? René Goulaine de Laudonnière, in his account of French ventures in old Florida, published in 1586, affirms that Verrazzano 'planta en ce pays les enseignes et armoiries du Roy de France: de sorte que les Espagnols mesmes qui y furent depuis ont nommé ce pays terre Francesque.' The Jesuit, Pierre Biard, in his Relation de la Nouvelle France of 1616, states: 'Depuis l'an 1523, Iean Verazan courut toute la coste, des la Floride iusques au Cap Breton, & en prit possession au nom de Francois i. son maistre.' Such statements probably embellish the truth. Verrazzano's own account of the voyage mentions neither acts of taking possession nor territorial claims, a surprising omission in a report addressed to the French king if any did occur. 'My intention on this voyage,' writes Verrazzano, 'was to reach Cathay and the extreme eastern coast of Asia, but I did not expect to find such an obstacle of new land as I have found; and if for some reason I did expect to find it, I estimated there would be some strait to get through to the Eastern Ocean.' The main objective was to pioneer a north-westerly route to the Orient, and so the unbroken land mass encountered was viewed primarily as a barrier. Verrazzano commented favourably upon its fertility and mineral potential, but the acquisition of territory did not figure among his declared goals. There is a hint of the latter in a marginal annotation to a

3 Wroth, Verrazzano, 57–90
5 Reuben G. Thwaites, ed., The Jesuit Relations and Allied Documents (Cleveland 1897), III, 40
6 Translation of Cellere manuscript in Wroth, Verrazzano, 142; see also 136, n8, and Carli letter, 157
manuscript of the Relation, possibly added by the explorer himself,\textsuperscript{7} which states that a certain place "was named by the discoverer "Varazanio," just as all the land we found was called "Francesca" after our Francis."\textsuperscript{8} Nevertheless the context and the off-hand character of the remark together suggest that 'Francesca' served an honorific purpose, like 'Varazanio,' and did not carry a juridical burden.

Speculation has been generated by a world map drawn in 1529 by the explorer's brother, Gerolamo da Verrazzano, which styles the eastern coast of North America 'Nova Gallia sive Ivcatanet' (New Gaul or Yucatan) and states beneath in smaller script: 'Verrazana sive nova gallia quale discopri 5 anni fa giovanni daverrazano fiorentino perordine et Comandamoto del Cristianissime Re di francia' (Verrazana, or New Gaul, which was discovered 5 years ago by Giovanni da Verrazzano, the Florentine, by the order and command of the Most Christian King of France).\textsuperscript{9} Three flags, apparently coloured blue, and possibly representing French royal standards, adorn the coast.\textsuperscript{10} From this, some conclude that France laid claim to the region on the basis of Verrazzano's voyage. The inference seems tenuous. While the map carries intimations of empire, there is no evidence that it expresses official French views or was directly linked with France at all.\textsuperscript{11} Even taken as an indication of the explorer's goals, it is overshadowed by Verrazzano's Relation, which mentions neither territorial claims nor the name 'Nova Gallia.' Curiously, another world chart attributed to Gerolamo da Verrazzano and thought to date from around 1528, with additions from the same hand between 1540 and 1542, labels eastern North America 'Verrazana' and places two Spanish flags along the coast. The name 'Nova Gallia' and the French standards do not appear.\textsuperscript{12}

\textsuperscript{7} Ibid., 145; Ch. A. Julien, R. Herval, Th. Beauchesne, Les Français en Amérique pendant la première moitié du XVIe siècle (Paris 1946), 53, note A
\textsuperscript{8} Wroth, Verrazzano, 136, n8
\textsuperscript{9} Ibid., plates 19a–22; Roberto Almagià, Planisferi carte nautiche e affini dal secolo XIV al XVII esistenti nella biblioteca apostolica vaticana (Vatican City 1944), plates xxiv–xxvi
\textsuperscript{10} W.F. Ganong, 'Crucial Maps in the Early Cartography and Place-nomenclature of the Atlantic Coast of Canada,' 'Transactions of the Royal Society of Canada, xxv, 1931, Ser. iii, Sect. ii, 175; B.F. De Costa, 'The Verrazano Map,' Magazine of American History, ii, 1878, 454; Keller, Acts, 103–4; Emerson D. Fite and Archibald Freeman, A Book of Old Maps Delineating American History ... (Cambridge 1926), 52
\textsuperscript{11} Henry Harrisse suggests that, as all names and inscriptions are in Italian, the map 'was not made in France nor for Frenchmen, but in Italy ...'; The Discovery of North America ... (London 1892), 575–6.
\textsuperscript{12} Marcel Destombes, 'Nautical Charts Attributed to Verrazano (1525–1528),' Imago Mundi, ii, 1954, 61–2. Destombes speculates that the northernmost flag might be painted over a French flag.
Upon returning from the 1524 voyage, Verrazzano sought an audience with François I, soliciting support for further explorations. We know from later royal acts that the Florentine proposed ‘un voyage par mer en certaines ysles incongneues et parties des Indes ...’ and that ‘le Roy avoit donne povir et permission de faire ledict voiage,’ with merchants once again providing financial support. At the last moment, the four ships equipped for the expedition were requisitioned for naval defence, and the enterprise failed.

In 1526 Verrazzano entered into an agreement with Philippe de Chabot, admiral of France and Brittany, along with other individuals, for a trading expedition described as ‘le voiaige des espiceryes aux Indes.’ Chabot undertook to obtain royal letters patent for the venture but we do not know whether these were secured. The itinerary of the ensuing voyage is debated; indeed some doubt that it occurred. It appears that Verrazzano attempted to round the Cape of Good Hope heading for the East Indies, and failing, repaired home via Brazil. In 1528 he embarked on a final voyage, possibly to Brazil, and possibly under Chabot’s auspices, dying en route.

Such expeditions did not pass unremarked in the Iberian Peninsula. The king of Portugal, informed in 1522 of Verrazzano’s projected voyage, dispatched an ambassador to France to try to prevent it. We have no record of similar Spanish intervention, although Spain was likely as well posted as Portugal. The Treaty of Madrid concluded on 14 January 1526 between France and Spain does not explicitly mention New World controversies; nevertheless, it touches obliquely upon the sore points. In Article v, the French king renounces any pretensions to ‘royaulmes, estatz, terres, pays et seigneuries presentement tenues et possedees’ by the king of Spain. Although the Spanish Indies do not figure in the specific renunciations which ensue, the general words are broad enough to cover them. However the phrase, ‘presentement tenues et possedees,’ as applied to the New World, leaves ample room for

13 Cellere manuscript, Wroth, Verrazzano, 143; Carli letter, ibid., 158
14 Ibid., 161. The acts date from 1538.
15 Ibid., 222–3
16 Cf ibid., 226–35; Jacques Habert, La vie et les voyages de Jean de Verrazane (Ottawa 1964), 321–36; Marcel Trudel, Histoire de la Nouvelle-France (Montréal 1963), 1, 57
17 Portuguese ambassador in France to king of Portugal, 24 Dec. 1527; Wroth, Verrazzano, 241–2
18 Ibid., 66–7; Eugène Guénin, Ango et ses pilotes (Paris 1901), 190–1
19 Ordonnances des rois de France: règne de François 1er, 1524–1526 (Paris 1933), iv, 187
argument as to the actual extent of Spain's possessions. Moreover, Article II establishes freedom of commerce, navigation, and fishing between the dominions of the parties, and Spain's American empire is not excepted.20

In any case, France was prepared to disregard Iberian pretensions in the Americas. In 1527 the French admiral told the Portuguese ambassador that he saw nothing wrong in France embarking on voyages of discovery. The ambassador reported: 'L'argument qu'ils donnent ici au sujet du Brésil est que, sans aucun doute, les indigènes de cette terre ont le droit de vendre leurs produits à qui ils veulent, s'ils sont libres et non pas vassaux. Quand ils sont mécontentés, ils disent la même chose en ce qui concerne les Indes.'21 The following year François I, protesting to the Portuguese king over the seizure of French ships off Brazil, declared: 'Le fait de trafic et échange de marchandises est de tous les droits un des plus naturels et des plus autorisés.'22 Again, in a letter of marque directed at the Portuguese in 1530, the French king complained of depredations committed on merchants who were travelling 'sur la mer qui est à chacun commune,' and who 'n'ont navigué ès lieux qui soient subjectz ny de l'obéissance dudit Roy de Portugal.' He accused Portugal of having 'tousjours taché de faire cruellement mourir nosdictz subjectz paouvres mercenaires, cuidant par la nous tollir le moien et liberté de naviguer sur la mer commune.'23 The instrument has interest not only as an early affirmation of the freedom of the seas, but also for its intimation that Portugal's rights extend only to areas actually ruled. As the result of Portuguese pressure, France retreated from this posture and in 1531 ordered embargoes on certain

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20 Ibid., 181. Habert, *Verrazane*, 309, states that Article III of the treaty specifically provides that France shall not send ships towards the sector of the New World claimed by Spain. The present writer has not discovered such a provision.

21 Portuguese ambassador in France to king of Portugal, 9 Dec. 1527; French translation without a source reference in Habert, *Verrazane*, 350–1


23 Test in Gudnin, *Ango*, 194–5. The instrument does not identify the acts complained of. Plausibly it refers to the Portuguese seizure of three Breton vessels off Brazil and the massacre of their crews in 1527, for which French demands for reparation, continuing through 1529, had been fruitless; see Julien, *Voyages*, 95–7. This letter of marque must be distinguished from another issued against the Portuguese on 27 July 1530, given in Guénin, *Ango*, 194 and 249 seq., and discussed in Julien, *Voyages*, 98–9. Curiously, Julien does not describe the first instrument cited here, although he refers to its reissue in 1533; ibid., 114, n4
ships bound for Guinea and Brazil. But in November 1533 it reissued the letter of marque of 1530, thus reiterating by inference its earlier claims.

The opposing position is presented in a letter of 1531 from the king of Portugal, where he explains to his ambassador in France that the Portuguese seizure of two French ships engaged in the Brazil trade had been provoked ‘par les excès et les rapines commis par les Français, lesquels vont commerçer dans des endroits où, seul, le roi de Portugal a le droit de le faire, droit établi tant par le fait d’une possession déjà ancienne que par suite des forces considérables qu’il entretient dans ces parages.’ The grounds for a Portuguese monopoly on commerce in these regions are elaborated in a letter of 1534, where the king affirms that while everyone was free to navigate seas which were known to all and treated as common to all, this did not hold true of seas which had previously been unknown and had seemed impossible to navigate, and which the Portuguese had discovered only with considerable efforts.

It seems significant that, in the course of these exchanges, there is no record that France countered Portuguese pretensions with exclusive claims of its own. It simply maintained a right of access to the New World, rejecting Iberian assertions of a monopoly on navigation and upholding the freedom of the seas and of commerce. It declined to respect territorial claims not backed by factual control, and affirmed that independent indigenous peoples might trade with whomsoever they pleased.

**The Voyages of Cartier, 1534-6**

In late 1533 or early 1534 Jacques Cartier was named ‘capitaine et pilote pour le Roy, ayant charge de voiaiger et allez aux Terres Neuff-yes, passez le destroict de la baye des Chasteauxx ....’

La Ronçière quotes a commission from Admiral Chabot of 31 October 1533, au-

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24 See the letter of 18 Aug. 1531 from the Portuguese ambassador to John III, and the letter of 20 Nov. 1531 from the admiral of France ordering the embargo, described in Guénin, *Ango*, 196–8
25 Text in ibid., 199–200, 194–5
26 French translation in ibid., 101
27 King of Portugal to Rui Fernandes, 2 May 1534, quoted in Gomes de Carvalho, *D. João III*, 64. The original passage reads: ‘Os mares que todos devem e podem navegar são aquelles que sempre foram sabidos de todos e communs a todos, mas os outros, que nunca foram sabidos nem parecia que se podiam navegar e foram descobertos com tão grandes trabalhos por mim, esses não.’
28 St Malo court order of 19 March 1534; H.P. Biggar, ed., *A Collection of Documents relating to Jacques Cartier and the Sieur de Roberval* (Ottawa 1930), 43
thorizing Cartier to ‘voyager, découvrir et conquérir à Neuve-France, ainsi que trouver, par le Nord, le passage au Cathay.’

No source is given, and the document remains unverified. Nevertheless, Cartier was clearly acting under royal orders. The king granted a subsidy of 6000 livres, and the pertinent instrument describes the goal: ‘descouvrir certaines yslés et pays où l’on dit qu’il se doibt trouver grant quantité d’or et autres riches choses.’

During the 1534 voyage Cartier successfully circumnavigated the Gulf of St Lawrence. The Relation of this venture indicates that, as with Verrazzano, the explorer’s principal preoccupation was discovering a strait to the East. Indeed, he returned to France with the hope that one lay between Anticosti Island and the northern mainland.

On 30 October 1534 Cartier received a commission from Admiral Chabot for a second expedition. He was instructed, at the king’s command, to complete ‘la navigation des terres par vous jh commanes à descouvrir outltre les Terres Neuves, et en icelluy voage essayer de faire et acomplir ce qu’il a plu audict seigneur vous commander et ordonner ...’ A royal grant of 3000 livres is equally vague, speaking of a voyage ‘pour aller descouvrir certaines terres longtaines ...’ Nevertheless, the Relation of the 1535–6 expedition describes Cartier as pursuing his search for a strait. During this expedition he attained Montreal, where rapids checked further progress. Thwarted in his original hopes, Cartier was rewarded by tales of the inland kingdom of the Saguenay ‘où il y a infiny or, rubiz et aultres richesses ...’

The territorial significance of these voyages is uncertain. The Second Relation, in a poetical preamble, gracefully attributes ownership of the lands explored to François 1, and elsewhere employs the name ‘la Nouvelle France.’ While the Relations do not mention explicit territorial claims advanced by Cartier, they describe the planting of
several crosses, usually interpreted as symbols of taking possession. These merit examination.

Two crosses were erected during the first voyage. The first was at Saint Servan harbour on the north shore of the Gulf of St Lawrence. On 11 June 1534 Cartier left his ships in Brest harbour and proceeded westwards in longboats to 'descouvrir et veoirs quelz hables il y avoit.' On the following day 'nous trouvames vne petite ripvibre, fort par-fonde, qui a la terre au surrouaist, et est entre deuxaultes terres. C'est vng bon hable; et fut planté vne croix audit hable, et nommé sainct Servan.' The cross’s purpose is not stated. Some commentators view it as a sign of taking possession, and others as a mariner’s guide-post marking a good harbour. The first view is improbable. The Relation does not mention anything suggesting an official purpose, or give prominence to the incident. The coast was an unlikely object for territorial claims, being composed of ‘pierres et rochiers effrables et mal rabottez’ and boasting barely a cartload of earth. The Relation terms it ‘la terre que Dieu donna h Cayn,’ hardly apt for a land claimed for one’s sovereign. The evidence favours the view that it marked a suitable harbour. The declared purpose of the excursion was to survey for harbours, and the Relation’s phraseology suggests that the cross was erected there precisely because it was ‘vng bon hable.’

The second cross was planted on 24 July 1534, at the entrance to a harbour identified as Gaspé Basin. Cartier had previously spent over a week in the Baie de Chaleur in search of a strait. Downcast by the results, he resumed coastal exploration northwards. Adverse winds and fog hindered progress and on 16 July the expedition retreated into ‘vng bon hable et seur,’ remaining until 25 July owing to bad weather.

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40 Harrison F. Lewis, 'Notes on Some Details of the Explorations by Jacques Cartier in the Gulf of St. Lawrence,' Transactions of the Royal Society of Canada, Ser. iii, Sect. ii, xxviii, 1934, 121–5; W.F. Ganong, 'Crucial Maps ... vi: The Voyages of Jacques Cartier,' ibid., xxviii, 1934, 179. The harbour has been variously identified as modern Rocky Bay and Lobster Bay.

41 First Relation: Biggar, Voyages, 18–19
42 Ibid., 20
43 Gustave Lanctot, Jacques Cartier devant l’histoire (Montréal 1947), 33. Samuel Eliot Morison even adorns the cross with a coat of arms not mentioned in the Relation, while locating it on an island near St Servan which Cartier describes but does not mention visiting; The European Discovery of North America: The Northern Voyages AD. 500–1600 (New York 1971), 352
44 Lewis, 'Notes,' 121, 125; Trudel, Histoire, 1, 81
45 First Relation: Biggar, Voyages, 22
46 Ibid., 64, n2; Ganong, 'Maps. vi,' 195–6
47 First Relation: Biggar, Voyages, 46, 48, 54–5, 58, 60
Toward the end of this enforced stopover, Cartier had a large cross erected in the presence of some Indians:

Le xxiiii^me jour dudit moys, nous fîmes faire vne croix, de trente pieds de hault, qui fut faicte devant plusieurs d'eulx [the Indians], sur la pointe de l'entrée dudit hable, soubz le croysillon de laquelle mismes vng escusson en bosse, à troys fleurs de lys, et dessus, vng escripteau en boys, engrave en grosse lettre de forme, où il y avoit, VIVE LE ROY DE FRANCE. Et icelle croix plantasmes sur ladicte pointe devant eulx, lesquelz la regardoyent faire et planter. Et après qu'elle fut eslevé en l'air, nous mismes tous à genoulx, les mains jointes, en adorant icelle devant eulx, et leur fîmes signe, regardant et leur monstrant le ciel, que par icelle estoit nostre redemption, dequoy ilz firent plusieurs admirationis, en tournant et regardant icelle croix.

When the French had returned to their ships, the chief of the Indians came in a canoe 'et nous fit vne grande harangue, nous monstrant ladite croix, et faisant le signe de la croix avec deux doydz; et puis nous monstrois la terre, tout à l'entour de nous, comme s'il eust voulu dire, que toute la terre estoit à luy, et que nous ne devyons pas planter ladite croix sans son congé.' The French brought the chief and his companions aboard: 'Et puis leurs monstrasmes par signe, que ladite croix avoit esté plantée pour faire merche et ballise, pour entrer dedans le hable; et que nous y retournerions bien tost, et leurs apporteryons des ferremens et aultres choses ...'48

Most commentators view this cross as a formal taking possession of the surrounding territory for France,49 while others consider that it also served as a landmark.50 The account itself mentions two purposes. We are told that the crew, after kneeling down in veneration of the cross, attempted to show the Indians by signs 'que par icelle estoit nostre redemption ....' This suggests a pious motivation, perhaps missionary zeal coupled with thankfulness for a safe voyage. But this was not all. Later the Indians were informed 'que ladite croix avoit esté plantée pour faire merche et ballise, pour entrer dedans le hable ...' – that is, to serve as a marker and beacon for entering the harbour.51 The

48 Ibid., 64-6
49 See Keller, Acts, 105–6; Julien, Voyages, 121; La Roncière, Cartier, 56–7; Morison, Discovery, 375; Lanctot, Cartier, 35–6; Gabriel-Louis Jaray, 'La politique américaine de François Ier et la prise de possession de la "Nouvelle-France" par Jacques Cartier,' Revue des questions historiques, May 1937, 29; Henry Folmer, Franco-Spanish Rivalry in North America 1524–1763 (Glendale, CA 1953), 38
50 Trudel, Histoire, 1, 81–2, 85. For H.P. Biggar's views, compare Voyages, 64, 11, with The Early Trading Companies of New France (Toronto 1901), 7
51 The word 'merche' is an old form of 'marque'; R. Grandsaignes d'Hauterive, Dictionnaire d'ancien français, moyen âge et renaissance (Paris 1947), 408; Edmond Huguet,
explanation appears truthful, so far as it goes. Some have argued that it was ‘patently intended for consumption by ignorant Indians only ...’52 Yet the Relation, which was intended for European consumption, reports the statement without comment,53 and the size of the cross, along with its location at the harbour mouth, supports it. The cross probably had additional functions not mentioned in the Relation. The royal insignia and inscription served no obvious religious or navigational purpose, and likely were intended to honour king and country, and to mark the landing-place of an official expedition. It is also possible that Cartier meant them to symbolize a territorial claim for France, or a taking possession of the area. If so, it is puzzling that the Relation is silent on a point of such importance, particularly as it mentions less significant purposes the cross served. Some argue that the chief’s opposition to the cross shows his awareness of its territorial rationale. But what the chief objected to was the erection of the cross without his permission, regardless of its purpose. Significantly, Cartier was absorbed at this period in discovering a strait; the Relation does not betray an intent to appropriate land. The Gaspé stopover was unplanned and unwanted. With better weather, no cross would have been planted there.

During his second expedition, Cartier raised three more crosses. On 1 August 1535, while sailing westwards along the north shore of the Gulf of St Lawrence, opposite Anticosti Island, the expedition found ‘vng bon petit havre, outre ledict cap Tiennot envyron sept lieues et demye(s); et est entre quatre yses sortente [s] à la mer. Nous le nommamos le havre saint Nicollas, et sus la plus prouche yse, plantasmes vne grande croix de boys, pour merche. Il fault amener ladite croix au nordest, puis laller querir et la laisser de tribort; et treuverez de parfond vi brasses, posez dedans ledict hable h quatre brasses; et se fault donner garde de deulx basses, qui demeurent des deulx coustez, demye lieue hors.’54 This passage has considerable significance. It

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52 As does Marc Lescarbot in his version of the original account in Histoire de la Nouvelle France, 3rd ed. (Paris 1617–18), ii, 408.
53 Second Relation: Biggar, Voyages, 100. The passage is translated there as follows: ‘We found a nice little harbour some seven and a half leagues beyond cape Thiennot, lying among four islands which stretch out into the gulf. We named it “St. Nicholas’s
explicitly describes the cross as a 'merche,' or marker, and explains its role in detail. This confirms that Cartier erected crosses as navigational aids, and so attests that the St Sévrain cross, erected in similar circumstances, served a parallel function, while corroborating the explanation of the Gaspé cross given to the Indians.

In the same year, on 7 October, while returning from the island of Montréal, ‘nous vinsmes poser le travers d’vne ripvière, qui vient devers le nort, sortente audict fleuve, à l’entrée de laquelle [il] y a quatre petites ysles, et plaines d’arbres. Nous nomnmasmes icelle ripvière la ripvière de Fouvez. Et pourqe que l’vne d’icelles ysles s’avance audict fleuve, et le veoyt on de loing, ledict cappitaine fict planter vne belle [grande] croix sus la pointe d’icelle ...’ Although several authors have interpreted this cross as a formal sign of possession, there is no mention of a coat of arms or hint of an official purpose. More likely it served a navigational function, as the reference to the site’s visibility suggests.

The following year, several days before Cartier’s departure for France, a ceremonious event occurred at the base-camp near Québec: ‘Le 11e jour de may, jour et feste sancte Croix, pour la sollemnéité et feste, le cappitaine fist planter vne belle croix, de la haulteur d’envyron trente cinq piedz de longueur, soubz le croizillon de laquelle y avoit vng escusson, en bosse, des armes de France, et sus icelluy estoit escript en lettre attique: FRANCISCVS PRIMVS, DEI GRATIA FRANCORVM REX, REGNAT.’ The cross clearly did not have a navigational rationale, and scholarly opinion inclines to interpret it as a symbol of taking possession. This overlooks the Relation’s explanation that the cross was

55 Lescarbot, in recounting this episode, remarks parenthetically: ‘il veut dire, marque ...’ Histoire, 11, 415
56 Cartier probably erected more crosses as markers than the Relations record, seeing the casual way in which several are mentioned. Ganong speculates that he planted one on Isle de Bryon, in the St Lawrence Gulf, citing maps naming it Cross Island. But if Cartier was following a sea-faring custom in planting crosses, it seems more likely another seaman would be responsible; Ganong, ‘Maps. vi,’ 185.
57 Second Relation: Biggar, Voyages, 172–3. Biggar places the site at the mouth of the St Maurice River.
58 Folmer, Rivalry, 39; Gustave Lanctot, A History of Canada (Toronto 1963–5), 1, 60
59 Second Relation: Biggar, Voyages, 225
60 Keller, Acts, 107; Julien, Voyages, 130; Folmer, Rivalry, 40. Trudel expresses this view only with some doubt; Histoire, 1, 111–12.
erected to celebrate the feast of the Holy Cross. There is no explicit indication that the arms and inscription were other than honorific.

To review, the St Nicholas cross is portrayed in the accounts as a sea-marker, that at Québec as a religious symbol, and that at Gaspé as both. Two others, at St Servan and 'Fouez' river, are not explained, but the circumstances suggest navigational rationales. None of the crosses is presented as serving official purposes, much less as symbolizing territorial claims.

What meaning are we to ascribe to them? It is helpful to distinguish between the crosses themselves and the coats of arms. As regards the former, there seems no reason to doubt the narratives' indications that they were erected for pious and navigational reasons. Of course the crosses were susceptible of later being invoked as evidence of French activity in the area, in making out a territorial claim. But this was also true of other facets of Cartier's voyages.

The coats of arms and inscriptions on the Gaspé and Québec crosses are a different matter. As symbols of the French crown, they cannot be explained on purely religious or navigational grounds. What prompted Cartier to erect them? A variety of possible motivations suggest themselves: to honour the French king, the expeditions' royal patron; to mark the stopping-places of an official French expedition; to signify an official French interest in the area; to serve notice of the crown's intention to acquire the adjacent territories, a process requiring completion by further exploration, and acts of settlement and conquest; to assert on France's behalf rights of exclusive access, as against other European states; to serve as formal acts of 'taking possession,' purporting to appropriate the surrounding area for France.

Which of these purposes, or which mixture of them animated Cartier is largely a matter of speculation. On present evidence, the first three possibilities, which suggest patriotic and honorific rationales, appear more likely than the latter three, which involves definite territorial pretensions of various sorts. Several factors suggest this. The narratives make no reference to territorial claims in connection with the coats of arms, a puzzling omission if any were in fact advanced. When one sets out to lay claim to an area the clearer the intent and the less equivocal the act the better. Secondly, we do not as yet know whether the crown had empowered Cartier to make territorial claims on these initial voyages. The matter was one of considerable delicacy, in view of Iberian pretensions. Significantly, as we shall see, the royal commission granted to Cartier in 1540 does not authorize him to make territorial acquisitions; for that we must look to Roberval's commission of the following year. One suspects that Cartier, practical seaman that
he was, did not have very distinct aims in erecting the coats of arms, other than to pay homage to his sovereign and to signify in a general way an official French interest in the regions. Nevertheless, we may note that these royal symbols would clearly lend themselves to invocation in establishing a territorial claim, should this prove useful at some later stage.

Whatever Cartier’s personal intentions, it would be important to determine what significance the French crown publicly attached to his acts in the immediately succeeding period. Unfortunately the diplomatic record is fragmentary. The present writer has not discovered any instances up to 1559 where France cited Cartier’s crosses in association with territorial claims, or indeed for any other purposes. The crosses were, of course, summoned up to do duty for France in diplomatic controversies of a later era, but this does not provide us with much insight into the official mind of Cartier’s time.

It would also be interesting, if less significant legally, to learn how Cartier’s acts were interpreted by contemporary Frenchmen. Here again the evidence is sparse. An intriguing reference is found in Jean Ribault’s account of his Florida expedition of 1562. The Relation begins with a brief description of previous explorations, and recounts that in 1534:

his Majestie, desiering allwaies thenlardging of his Kingdom, cuntries and domynions, and the advauntage and ease of his pooer subiectes, sent thither a pilote of St. Malos in Bryttayne, named Jaques Carter, well seen in the art and knowledg of navegation, and speecally for the northe partes, comonly called the Newland, led by some hope to fynd passage that waies to the southe sees, who being not able at this his ffirst going to bring any thing to pase of that he pretended to do, was sent thither agayn the yere ftbllowing, and likewise le Sieur de Beuernall. And as it is well known, they did inhabite, builde [and] plant the Kinges armes in the northe partes a good way within the lande, as far as Cavadu and Ochelaga.61

Planting the royal insignia is portrayed as a step toward establishing a French presence in the area, as with the activities of inhabiting and building. Whether it is perceived as embodying a territorial claim is less clear. We may also recall a passage by René de Laudonnière quoted

61 Jean Ribault, ‘The true discouerie of terra Florrida,’ in H.P. Biggar, ed., ‘Jean Ribault’s Discoverie of Terra Florida,’ English Historical Review, xxxii, 1917, 257. This text reproduces a manuscript upon which the first English edition was based, printed at London for Thomas Hacket in 1563. The original French text has not been discovered.
earlier, where he describes how Verrazzano planted the king’s arms in the New World, ‘de sorte que les Espagnols mesmes qui y furent depuiz ont nommé ce pais terre Francesque.’ 62 The incident itself is probably apocryphal. What is significant is that certain rights are assumed to flow from the mere planting of arms. It is not surprising that Ribault and Laudonnière attached importance to such events, for in their Florida voyage of 1562, stone pillars bearing the French arms were placed at two coastal sites. Ribault describes the first as a ‘bounde or lymete of his majestie,’ 63 and Laudonnière uses the term ‘borne,’ or ‘boundary-mark’ for both pillars. 64 Apparently they were intended to demarcate the limits of a stretch of coast claimed for the French crown, or marked out for French aspirations.

While the accounts of Ribault’s expedition, then, suggest a connection in official French practice between territorial claims and the planting of royal insignia, we must be cautious before interpreting Cartier’s actions at Gaspé and Québec in this light. Nearly thirty years separate the two enterprises, launched by different men with distinct goals. In the intervening decades French practice may have been influenced by Portuguese and Spanish precedents. The silence of both Cartier’s Relations and of the diplomatic record in this period discourages hasty parallels. Even assuming, however, that Cartier intended the royal arms to signify French territorial claims, and that the French crown authorized or adopted these acts, we still could not conclude, as do certain writers, 65 that their effect in international law was to furnish France with title to the lands claimed. The legal effect of an act does not follow automatically from its intent. It has not been established that European state-practice of that period accepted the performance of symbolic acts as juridically sufficient to furnish title to a New World territory. 66

62 Note 4
63 Ribault, ‘The true discouerie,’ 263.
64 Text in Lussagnet, Français, 57, 87
65 Keller, Acts, 106; Lanctot, History, 1, 56
We know little about the international repercussions of Cartier’s early voyages. It seems likely that Spain and Portugal came to know of them, considering how rapidly plans for a third expedition reached them in 1540. We hear in 1535 of Spanish concern over French designs in the ‘Indies,’ but whether Cartier was the cause is unclear.

Some intriguing remarks are found in an undated genealogy of the Le Veneur family, written by Charles-Jean-François Hénault (1685–1770). The relevant part concerns Jean Le Veneur, who in 1534 was a cardinal and Grand Aumônier of France. After describing how Le Veneur first brought Cartier to the king’s attention, Hénault recounts:

Jacques Cartier fit plusieurs voyages et donna au Roi la Nouvelle-France dit Canada. Après le premier voyage l’Empereur Charles-Quint fit présenter des remontrances au Roi François Ier sur ce que le Pape avait dévolu à la couronne d’Espagne la possession des terres du nouveau continent.

Jean Le Veneur qui avait été créé Cardinal au titre de Saint-Barthélemy en 1533 par le Pape, Clément vii, se rendit à Rome, et obtint grâce au puissant appui du Cardinal de Médicis, neveu du Pape, une déclaration du Saint-Père, que la bulle pontificale partageant les continents nouveaux entre les couronnes d’Espagne et de Portugal, ne concernait que les continents connus et non les terres ultérieurement découvertes par les autres couronnes.

The text then relates how Cartier, as a mark of gratitude to the Cardinal de Médicis, named Montréal after his archbishopric.

Hénault’s account has won general acceptance. The author was a reputable historian, with a penchant for chronology and genealogy, sometime president of a court in the Parlement de Paris and a member of the Académie Française. He was indirectly related to the Le Veneur

67 Memoir by Granvelle, November 1535; Ch. Weiss, ed., Papiers d’état du Cardinal de Granvelle (Paris 1841), ii, 404
68 Printed in Baron de La Chapelle, ‘Jean Le Veneur et le Canada’ Nova Francia, vi, 1931, 340. The year given in the subtitle there apparently identifies, not the time of composition, but the date Hénault entered the Académie Française. For biography of Hénault, see Gustave Lanctot, ‘Cartier’s First Voyage to Canada in 1524,’ Canadian Historical Review, xxv, 1944, 240; Ludovic Lalanne, Dictionnaire historique de la France (Paris 1877), 978; M. Holfer, ed., Nouvelle biographie générale (Paris 1858), xxiii, 914
69 Julien, Voyages, 115–17; Trudel, Histoire, i, 67; Morison, Discovery, 341; Lanctot, ‘Voyage; 238–41
70 See his noted work, Nouvel abrégé chronologique de l’histoire de France, nouv. éd., 2 vols. (Paris 1768), first published in 1744, with at least seven editions; and his Mémoires, ed. by Baron de Vigan (Paris 1855).
family, and presumably used their archives. Nevertheless, there are reasons for doubting the story's accuracy.

The date of the Rome visit is unclear. An outside limit is provided by the death of the Cardinal de Médicis on 10 August 1535\(^71\) and the naming of Montréal during Cartier's voyage of 1535–6. Hénault also indicates that the visit occurred sometime after Le Veneur became cardinal, which happened on 7 November 1533.\(^72\) Moreover, he presents it as sparked by a Spanish protest following the first voyage, which ended on 5 September 1534.\(^73\) The difficulty is that Pope Clement vii, who supposedly made the declaration, died shortly after this voyage, on 25 September 1534,\(^74\) hardly allowing time for a Spanish protest and a visit to Rome.\(^75\)

The papal declaration must have been made, then, by Clement's successor, Paul iii. But this not only impairs Hénault's account and calls into question the Cardinal de Médicis' role, it also fails to explain why Paul iii, when requested by Spain in 1541 to uphold the Papal Bulls against France, did not cite his earlier decision.\(^76\) Some historians avoid these difficulties by placing the papal interview at Marseille during the nuptials of the king's son and Clement vii's niece in October 1533.\(^77\) But the text presents Le Veneur's attendance there as a distinct matter, several paragraphs before describing the interview, which it locates in Rome after Le Veneur's elevation as cardinal and a Spanish protest. To disregard these elements is to discredit the whole. Hénault's chronology can be saved by construing his statement that Spain protested after the first voyage to mean after Cartier's departure in April 1534, leaving the summer for papal consultations. Nevertheless, the Pope's fatal illness began in June, and one begins to suspect that the historian did not actually know when the episode occurred.

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71 Hénault identifies him as Hippolyte de Médicis, nephew of Pope Clement vii. More precisely, he was the natural grandson of Clement vii's uncle; see the genealogical table in the Encyclopaedia Britannica (Chicago 1967), xv, 89; his death is described at 87.
72 Ludwig Pastor, The History of the Popes ..., ed. Ralph F. Kerr (London 1910), x, 233; Hénault, Abrege, i, 386
73 Biggar, Voyages, 79
74 From an illness commencing in June; Pastor, Popes, x, 322–6
75 In the years 1497 to 1532 it normally took between thirty-four and seven days for letters to travel from Paris to Venice, with an average of twelve days, and this route was unusually fast; Fernand Braudel, The Mediterranean and the Mediterranean World in the Age of Philip II, 2nd ed., trans. Séan Reynolds (London 1972), i, 362–4.
76 See our discussion, 163
77 Julien, Voyages, 115–16; Trudel, Histoire, i, 67. Lanctot, History, i, 53, sets it in Rome, just after the wedding.
On a more fundamental level, the account cannot easily be reconciled with the Franco-Spanish quarrel of 1540–1, discussed later, in which Spain cited the Papal Bulls to France and solicited the pope's intervention. In response François I not only failed to invoke an earlier papal decision in his favour, but denied the pope's jurisdiction in this area, which seems inexplicable if Hénault's story is correct. Altogether, the course of debate in 1540–1 suggests that this was the first time a Papal ruling was sought, not the second. It seems possible that Hénault had seen undated references to Le Veneur's involvement in just this episode, and, speculating upon the possible role of the Cardinal de Médicis, mistakenly transposed it to the thirties. Considering that he wrote some two hundred years after the event, drawing upon unknown sources, and that his story lacks independent corroboration, we are forced to treat it as doubtful.

A hiatus of nearly five years intervened between Cartier's return from his second voyage and his re-embarkation. War with Spain broke out in 1536, which until the truce of 1538 diverted attention from New World explorations. To strengthen its position, France, on 14 July 1536, entered into a treaty of amity and alliance with Portugal at Lyon, in the wake of which, on 30 May 1537, François I forbade French sailors to 'voyager esd. terres de Brésil, ne Mallaguette ny austerres descouvertes par les roys de Portugal...' Nevertheless on 11 March 1538 the original French position was expounded before a joint Franco-Portuguese prize tribunal in Bayonne by Bertrand d'Ornesan, Baron of Saint-Blancard and commander of the royal Mediterranean fleet. Referring to the 'Brazilian islands,' he affirmed that 'le Roi de Portugal n'a dans lesdites iles ni domaine ni juridiction, les naturels n'y supportant d’autres règles que les moeurs et rites sauvages,' implying that factual control was a prerequisite of title. The submission continues: 'On peut également poser en fait que ledit Roi de Portugal n’a sur ces iles aucun pouvoir de plus que le Roi de France, puisque la mer est à tout le monde, que les iles susdites sont ouvertes à tous ceux qui y abordent et qu’il est en conséquence permis non seulement aux Français mais encore à toutes les autres nations de les fréquenter et d’y

78 Le Veneur died, by Hénault’s account, only on 7 August 1543, but we have no record of his participation in the 1540–1 affair.
80 Letters patent of 22 Dec. 1538, confirming those of 30 May 1537; Guénin, Ango, 203–5. There were several renewals, the latest being in January 1539; La Roncière, Marine, III, 292. For their probable connection with the Treaty of Lyon, see Julien, Voyages, 133–4. The term Mallaguette refers to the Liberian Grain Coast; Biggar, Documents, 112, n1.
avoir commerce avec les indigènes.'

Notably the argument invokes, not French proprietary rights in the lands concerned, but freedom of navigation and commerce.

War with Spain ended with a ten-year truce concluded under papal auspices at Nice, on 18 June 1538. Although the Spanish crown had considered insisting that the articles contain a stipulation concerning the Indies, 'to prevent king Francis from undertaking anything in that quarter ...' no such clause appears. However, the opening article provides that neither party shall alter its position 'mais demeureront toutes choses en l'état qu'elles sont, en la possession & jouissance à chacun comme il a respectivement ...' To Spain, this probably implied non-intervention in its asserted American sphere; hence its later contention that the Cartier-Roberval enterprise violated the truce. But the criterion of 'possession and enjoyment' could be used to clip Spain's territorial claims. A later article provides that the subjects of each state-party may come and go, trade and sojourn 'franchement, & librement, comme en tems de bonne & paisible Paix, sans contredit ni empêchement quelconque,' which suggests a basis for French claims to travel freely to the New World.

THE CARTIER-ROBERVAL EXPEDITION, 1538–43

Following the truce, in September 1538 a memoir was drawn up for the French king's consideration, outlining a projected Canadian expedition of ambitious scope. The authorship is uncertain, though some attribute it to Cartier. As printed in Biggar's Collection of Documents, the memoir commences with a preamble declaring that the French monarch was motivated only by the desire to establish Christianity in a land 'où il sçavoit bien qu'il n'y avoit point de mines d'or & d'argent, ny autre gain à esperer ...' This recital has attracted much comment from historians who assume that it is roughly contemporaneous with the text proper, as the format in Biggar's Documents suggests. However,

81 Translation of the Latin original; Guénin, Anglo, 45–6; see also 256 ff.
82 Text in J. Du Mont, Corps Universel Diplomatique du Droit des Gens (Amsterdam 1726), iv, Part ii, 16ff.
83 Great Britain, Public Record Office, Calendar of ... State Papers, Relating to the Negotiations between England and Spain ... (London 1862–1954), v, Part ii, 407, Art. lxxv
84 Nevertheless, Spain apparently intended to insert such a provision in a future treaty with France; Luis Sarmiento to the Emperor, 30 July 1538; ibid., vi, Part i, 5.
85 See Trudel's comments, Histoire, 1, 122.
86 Biggar, Documents, 70–1
87 Julien, Voyages, 136–8, remarks on the contrast between preamble and text, but assumes their contemporaneity. Trudel, Histoire, 1, 121, n8, and 130, concludes that
ever, an examination of Biggar’s source, a collection of documents by G. Ribier published in 1666, reveals that the supposed ‘preamble’ is in fact an explanatory introduction furnished by Ribier himself. As such, it does not merit consideration.

The proposed expedition was not undertaken, and it was not until 1540 that official action resumed. On 21 August that year the Spanish ambassador in France informed his monarch that the French king had given licence to all his subjects to go to new lands, both those of Portugal and Spain. The Spanish king protested that the licence was ‘directly contrary’ to the truce. Nevertheless, on 17 October the French monarch issued a commission to Cartier for a third expedition, the first such instrument known to have emanated directly from the crown.

The commission names Jacques Cartier ‘capitaine general et maistre pilott’ of an expedition to the lands of ‘Canada et Ochefaga ct jusques en la terre de Saguenay, s’il peult y aborder ...’ The aims are described thus: ‘pour plus avant entrer esdictz pays, converser avecques lesdictz peuples d’icieux et avecques eux habiter, si besoin est, affin de mieux

the preamble was added around 1540, ‘lorsqu’on a cxhum5 ce mémoire pour lui redonner de l’actualité ...’ Lancot more cautiously speaks of its ‘doubtful authenticity’; History, 1, 65. All three rely on Biggar’s Collection.


89 This fact is so evident that no deception could have been intended. The salient points are these: 1) The title, ‘Memoire des homroes etc.,’ and the preamble are italicized, while the text is not. Numerous other documents in this volume also feature italicized introductions obviously written by the editor. 2) Preamble and text are separated by a blank line, not found between other paragraphs within the memoir. 3) The text proper begins with an oversize letter “P” three lines high. 4) The marginal notation, ‘Origin.,’ for ‘Original,’ appears opposite the first line in the text, some two inches below the start of the preamble. 5) The memoir is followed by a long italicized commentary, resembling the preamble in style and content, which discusses events occurring long after Cartier’s voyages.

90 Biggar, Documents, 102. La Roncière reports, however, that the ban on voyages to Brazil was not officially lifted until 13 November 1540; Marine, 1, 297. Shortly afterwards, according to Gomes de Carvalho, the Portuguese ambassador informed his monarch that ‘o rei de França acutorisava os seus subditos a commerciar em terras descobertas por Portugal que não fossem habitadas ou frequentadas por portuguezes’; João, 62, citing Rui Fernandes to the king, 27 Nov. 1540.

91 The emperor to his ambassador in Portugal, Sept. 1540 (?) describing an earlier letter to his ambassador in France; Biggar, Documents, 108. See also the Cardinal of Toledo to the Spanish ambassador in Portugal, 28 Sept. 1540; ibid., 104. Note that ‘tregua’ should be translated as ‘truce’ rather than ‘treaty’ (‘tratado’), the references being to the Nice truce of 1538.

92 Text in ibid., 128–31
parvenir à nostredicte intencion et à faire chose agréable à Dieu
nostre createur et redempteur et qui soict à l'augmentacion de son
sainct et sacré nom et de nostre mère saincte eglise catholique ...' The
commission does not authorize Cartier to acquire lands for France, nor
does it assume pre-existing French rights in Canada, reciting that
earlier French voyages were motivated by 'le desir d'entendre et avoir
connoissance de plusieurs pays qu'on dict inhabitez, et aultres estre
possedez par gens sauvages vivans sans connoissance de Dieu et sans
vsaige de raison ...'\textsuperscript{93} Iberian claims are not mentioned, and the lands in
question are viewed as possessed in part by indigenous people, albeit
pagan and bereft of reason. The commission refers specifically to the
voyages of 'nostre chef et bien aimé Jacques Cartier, lequel auroict
découvert grand pays des terres de Canada et Ochelaga, faisant vn
bout de l'Asie du costé de l'occident ...' But there is no suggestion that
Cartier had laid claim to Canada and Hochelaga for France.

On 15 January 1541 a new royal commission was issued to Jean
François de La Rocque, Sieur de Roberval.\textsuperscript{94} This took precedence
over Carrier's commission\textsuperscript{95} and transformed the enterprise from a
voyage of exploration to one of conquest and colonization. Roberval is
named 'lieutenant general, chef, ducteur et cappitaine' of the expedi-
tion, with full power over all men and ships. The instrument does not
assert pre-existing French rights to the territories mentioned: 'pays de
Canada et Ochelaga et autres circonjacens ...' Rather their acquisition is
presented as the central aim. Hence the mandate: '... de passer et
rapasser, aller venir esdits pays estranges, de descendre et entrer en
iceux et les mettre en nostre main tant par voye d'amictid ou amiables
compositions, si faire se peut, que par force d'armes, main forte et
toutes autres voyes d'hostilité ...' This is the earliest official expression
known of the French crown's intention to acquire American territo-
ries.\textsuperscript{96} Only two modes of acquisition are envisaged: peaceful agree-
ment and war – in classical terminology, cession and conquest. There is
no reference to acquisition by discovery or symbolical acts. Other
passages make it clear that the crown envisages no less than the reduc-
tion of the inhabitants to French control, the imposition of French law,
and the founding of settlements, forts, and missions.\textsuperscript{97} The text poses

\textsuperscript{93} For discussion of the voyage's true aims, see Trudel, \textit{Histoire}, 1, 129–31; Julien,

\textsuperscript{94} Text in Biggar, \textit{Documents}, 178–85

\textsuperscript{95} See provision in \textit{ibid.}, 183

\textsuperscript{96} Excepting the doubtful Chabot Commission to Cartier of 31 Oct. 1533, cited by La
Roncière; see note 29.

\textsuperscript{97} See esp. \textit{ibid.}, 178, 180.
one major limitation on the authority to acquire lands: "Pourveu toutesfoys que ce ne soient pays tenus, occupez, possedez et dominez ou estans sobz le subjection et obeissance d'aucuns princes ou poten
tas, nos alillez et confederez, et mesmement de nos tres-chers et amez freres l'empereur et le Roy de Portugal."98 While disclaiming French
designs on the territories of other rulers, the clause confines its protec
tion to lands actually controlled by them. Iberian pretensions are
implicitly rejected. It is sometimes thought that the commission, by
authorizing the conquest of indigenous peoples, or at least non-allied
ones,99 tacitly denies them title to the lands they occupy.100 This
appears inexact. The saving clause does not protect the territories of
non-allied Christian princes either. The authorization to conquer im
plies, not the absence of existing territorial rights, but the justice of the
cause. Indeed, the modes of acquisition which the commission con
templates - cession and conquest - indirectly acknowledge the presen
tce of such rights, as these are derivative, not original modes of
acquisition.

The justification given in the commission for American conquests is
religious - the spreading of Christianity. Contemporary observers did
not take this rationale very seriously, nor do modern historians.101 The
French crown, while repudiating, as we shall see, the authority of the

98 Ibid., 180. There are precedents for this formula; the Papal Bull Inter Caetera of
4 May 1493 grants to Spain all lands beyond a certain line, with the proviso that none
of them 'be in the actual possession of any Christian king or prince' as of Christmas
1492; Davenport, Treaties, I, 77. See also the English Letters Patent to Hugh Eliot and
others of 9 Dec. 1502; H.P. Biggar, ed., The Precursors of Jacques Cartier, 1497-1534
(Ottawa 1911), 82.

99 The saving clause would cover indigenous allies, as well as Christian ones. The
preamble speaks of sending the expedition to 'pays de Canada et Ochelaga et autres
circonjacens, mesmes en tous pays transmarins et maritimes, inhabitez ou non
possedez et dominez par aucun princes crestiens ...' (ibid., 178), referring to Chris
tian princes, rather than allied ones, but an introductory reference carries less weight
legally than a formulation in the body of the text. H. Verreau's contention that the
formula protects all indigenous Canadian groups, allied or not, is unsustainable;
'Jacques Cartier: Questions de droit public, de legislation et d'usage maritime,'
Transactions of the Royal Society of Canada, Sec. I, IX, 1891, 85.

100 For example, Henri Brun implies this in 'Les droits des Indiens sur le territoire du
Quebec,' Cahiers de droit, x, 1969, 426, 428-9.

101 Among the various motives which Spanish officials thought might explain the
French expedition, the religious one was apparently not even considered. The
cardinal of Seville commented: 'their motive is that they think, from what they
learn, that these provinces are rich in gold and silver, and they hope to do as we have
done, but, in my judgment, they are making a mistake ...'; Letter of 10 June 1541;
Biggar, Documents, 325. For recent views see Trudel, Histoire, I, 129-31; Julien,
Voyages, 138-41, 147, 149; Lanctot, History, I, 67-8.
Papal Bulls favouring Spain and Portugal, sought to legitimize its own imperialist ventures by invoking the doctrine which those instruments enunciated — that it is pleasing to God ‘that barbarous nations be overthrown and brought to the Faith itself.’

The commission gives Roberval full authority with respect to land, including the power to grant it ‘en fief et seigneurie’ and on other terms. The precise wording merits attention. The king grants ‘plaine puissance et auctorit de icelles terres qu’il nous pourra avoir acquises en icelluy voyage ...’ (note the future tense). Roberval’s powers extend only to such lands as he is able to acquire for the crown. Similar thinking underlies an earlier passage, in which Roberval is authorized to ‘statuer, enjoindre et commander à toutes les choses qu’il verra estre bonnes, vtilles et convenables ... et tant sur la mer que en terre ferme, es lieux et endroictz qui seront reduitz soubz nostre obeissance ...’

Cartier set sail for Canada on 23 May 1541, with five ships and a large company of men. Roberval departed the following year with some 200 souls, the nucleus of an intended settlement. On reaching Newfoundland he met Cartier’s ships destined for France, bearing gold and ‘stones like Diamants, the most faire, polished and excellently cut that it is possible for a man to see.’ When Roberval ordered Cartier to accompany him back to Canada, the latter slipped away at night, and returned to France.

The ‘gold’ and ‘diamonds’ proved worthless, and the hopes of François I collapsed. With them died French interest in Canada for the time being. Roberval and the remnants of his colony were brought back the following year. The surviving accounts of these ventures make no mention of symbolical annexations or territorial claims.

**Diplomatic Exchanges, 1540–1**

The granting of a royal commission to Cartier precipitated a diplomatic storm. The Spanish ambassador remonstrated with Montmorenci, the French constable, who replied that Cartier’s destination lay in new lands not held by the Spanish or Portuguese crowns, adding that...
'to uninhabited lands, although discovered, anyone may go.' Spain protested that the commission violated the Truce of Nice and the Papal Bulls. But, related the Spanish ambassador, the French king replied as before, that he could not desist from giving the said licence to his subjects for any place whatever, but at least they will not touch at places belonging to your Majesty, nor go to the parts not discovered by his predecessors, and belonging to his crown more than thirty years before the ships of Spain or Portugal sailed to the new Indies; and as to what I told him that permission to navigate these parts was conceded to your Majesty's predecessors by the Pope, and applied to them, he answered that the Popes hold spiritual jurisdiction, but that it does not lie with them to distribute lands among kings, and that the Kings of France, and other Christians, were not summoned when the partition took place; and in conclusion, Sire, I have not been able to settle anything but that his subjects shall not go to your lands or ports. In truth, I think he has in mind the populated and defended places, because he said that passing by and discovering with the eye was not taking possession. The Spanish monarch decided to seek the pope's intervention, arguing that the French action contravened the 1538 truce, concluded under papal auspices, and further that it was 'to our prejudice, and that of the said most Serene King of Portugal, holding, as we do hold, the title and right to the Indies from the Apostolic See ...'. The cardinal of Toledo was unenthusiastic about the latter point. He advised the emperor that, in making an approach to the pope, '... the claim to the Indies should be chiefly based on the fact that your Majesty discovered, conquered and has settled, at great cost, these lands, and continued in peaceful possession, and also the proximity of your Majesty's...
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lands with these lands; and not insist too much upon the concession or permission of his Holiness, both because this might give rise to difficulties, and especially because of the little importance the French King attaches to it ...'' Replying, Charles v agreed that the papal concession should be downplayed and that stress should be laid on the other grounds mentioned.

It would be interesting to learn how the pope disposed of the matter. Unfortunately we know only that, in the sanguine opinion of the Spanish ambassador in Rome, the pontiff's initial reaction seemed 'very favourable' and that he showed 'a disposition to maintain justice for his Majesty [the Spanish king] and uphold the concession of the Apostolic See ...' but prudently requested to see the texts of the Truce of Nice and the Papal Bulls before deciding. Copies were forwarded to the Spanish ambassador in Rome, but we hear no more after that. The French crown apparently became involved, for the emperor earlier mentioned to the cardinal of Toledo that 'although we have learnt that his Holiness has approached the said King [of France] through the medium of his nuncio in France, we have no news of the decision come to ...' Possibly this contact initiated the episode related by Hénault, in which the pope is said to have ruled in France's favour.

Additional light on French attitudes is provided by an exchange between François I and the Portuguese ambassador late in 1541, where the French monarch is reported as saying that 'he intended to proceed with conquests and voyages, which were his right as well as that of other princes of Christendom, and intended to preserve friendship and good understanding with certain princes of the Indies.' The statement apparently assumes the independence and equality of the indigenous rulers.

These fragmentary representations of French views, once or even twice removed from source, must be used with caution. However, they suggest the following outlook regarding the New World: territorial title cannot be derived from Papal Bulls, because the pope's jurisdiction is spiritual not temporal; title cannot be based on mere visual apprehension - 'passing by and discovering with the eye', nor can this

113 Letter of 24 March 1541, ibid., 242–3. See also cardinal of Toledo to emperor, 26 June 1541, ibid., 318.
114 Letter of 7 May 1541, ibid., 283–4.
115 Spanish ambassador in Rome to comendador of Leon (Los Cobos), 14 April 1541, ibid., 268–9. See also the same to emperor, 17 April 1541, ibid., 270–1.
116 Los Cobos to Aguilar, 6 July 1541, ibid., 329–30.
117 Letter of 7 May 1541, ibid., 284.
118 Spanish ambassador in France to emperor, 3 Nov. 1541; ibid., 404. The word translated as 'princes' is 'princes' in the original text, and is also used there for Christian monarchs.
furnish even an inchoate title adequate to exclude other powers, for in the phrase attributed to the French Constable, 'to uninhabited lands, although discovered, anyone may go'; a territorial claim, to merit respect, must involve a substantial and continuing exercise of authority, whether by way of settlement or military control, and thus only the 'populated and defended places,' in the Spanish ambassador's view, are recognized as Spanish domains; wherever independent princes exist in the New World, France is entitled to find allies. Nevertheless, the French position, as reported, has its twists. Witness the French monarch's undertaking to confine his activities to parts 'discovered by his predecessors, and belonging to his crown more than thirty years before the ships of Spain and Portugal sailed to the new Indies ...' This is the first positive assertion by the French crown of territorial rights in the New World known so far. Paradoxically it is linked with French discoveries supposedly made years before Columbus,¹¹⁹ this in the course of a statement rejecting the efficacy of 'passing by and discovering with the eye ...' an illustration, perhaps, of the tendency to arrogate for oneself the benefit of principles denied to others. Still, the main French point remains clear: the rejection of Iberian claims to exclusive access to the New World and to dominion over territories neither settled nor controlled.¹²⁰

¹¹⁹ The king perhaps refers to early voyages by fishing vessels, but none are known prior to 1504; ibid., 170, n1; Lanctot, History, 1, 45–6; Julien, Français en Amérique, 1–3; Trudel, Histoire, 1, 54.

¹²⁰ Certain writers have stressed the similarity between French views on the Papal Bulls and those of the Spanish theologian, Franciscus de Victoria; see Julien, Voyages, 114–15, 145; Trudel, Histoire, 1, 67; Lanctot, History, 1, 53. A discussion of European doctrinal writings is beyond the scope of this paper, but it may be noted that the comparison is misleading. True, Victoria holds that the pope 'is not civil or temporal lord of the whole world' and so could not grant the Spanish king dominion over indigenous Americans and their lands. But he goes on to affirm that the pope may entrust the task of spreading the Gospel in America exclusively to the Spaniards, and forbid others to preach and even to trade there; he thus in effect supports Spanish claims to a monopoly on access to America based on the Papal Bulls, which is far removed from the French position. See Franciscus de Victoria, De Indis et De Iure Belli Relectiones, Being Parts of Relectiones Theologicae XII, ed. Ernest Nys, trans. John P. Bate (Washington 1917), 134–6, 1st Rel., Sect. ii, pars. 2–5; and 156–57, 1st Rel., Sect. iii, pars. 9–10. It seems unlikely that Victoria's views could have influenced France's position at this period, as they were expressed in lectures delivered only in Jan. 1539, and did not appear in print until the Lyon edition of 1557. The old date of 1532 given for the lectures is no longer generally accepted. See R.P. Vicente Beltran de Heredia, Francisco de Vitoria (Barcelona 1939), 82–91; Paul Hadrossek, Introductory note to Franciscus de Victoria, De Indis ... (Tübingen 1952), xv, xvi n12; the older view is found in the Nys edition of De Indis (cited above), 191.
THE ABYEANCE OF FRENCH INTEREST IN CANADA, 1544-59

With the first French colonizing effort in North America a failure, France did not press territorial claims there. A separate article to the Treaty of Crépy-en-Laonnois of 18 September 1544 between France and Spain refers to the fact that the Spanish emperor ‘maintient que a luy et au Roy de Portugal, son beaufrère, appartiennent a bon et juste titre selon la division de traictez dentre eulx, toutes les terres des Yndes, tant en isles que de terre ferme, descouvertes et a descouvrir ...’ France, neither admitting nor denying this claim, agrees to leave the Iberian powers in peace ‘en tout ce qui concerne lesdites Yndes, descouvertes et a descouvrir, sans directement ou indirectement y faire empires quelconques, en quelque lieu ou endroict que ce soit ...’ A proviso allowing French trade there aroused suspicion, and Spain apparently never ratified the article. Nevertheless, it is interesting that France should be willing to concede, if not the entirety of Iberian pretensions, at least the absence of a competing French claim. And in 1545, on Spain’s insistence, François I forbade expeditions to Spanish dominions overseas.

War resumed between France and Spain in 1552, and the five-year truce concluded at Vaucelles on 6 February 1556 provided in a separate article that, for the duration, French subjects would not sail to or trade in the Spanish Indies without Spain’s licence. Within a year hostilities recommenced, to cease with the Treaty of Cateau-Cambrésis on 3 April 1559. The question of French travel to the Indies was discussed at length in the preliminary negotiations. Spain claimed a monopoly on western navigation, citing the papal concession and the expenses of discovery. France urged in response that ‘la mer soit commune,’ professing willingness to exclude its subjects from lands actually possessed by Spain or Portugal, but not from lieux que si bien ilz sont descouvertz, toutesfois nobeissent ny au royaulme de Castille ny a celluy de Portugal.’ In the end, the treaty did not mention the Indies, and the earlier French insistence on factual control as a prerequisite of title in the New World had reappeared.

121 Davenport, Treaties, 1, 208, emphasis added
122 Folmer, Rivalry, 63
123 Davenport, Treaties, 1, 207. For Portugal’s views on these negotiations see Guénin, Ango, 232-3
124 La Roncière, Marine, III, 302-3. A similar ban on navigation to lands discovered by Portugal was issued in October 1547; ibid., 303-4
125 Davenport, Treaties, 1, 217-18
126 Ibid., 220, n9
The absence of firm French claims in North America is reflected in contemporaneous maps associated with the court of France. The ‘Harleian’ world map (post-1536 and perhaps circa 1542–3)\(^{127}\) probably drew upon Cartier’s own charts,\(^{128}\) and was possibly made for the dauphin, whose coat of arms it displays.\(^{129}\) Yet it features nothing beyond a Cartier-derived toponymy to indicate a French tie with Canada – no flags, inscriptions, or names such as ‘Nouvelle France.’ The Desceliers world map of 1546,\(^ {130}\) also deriving in part from a Cartier original,\(^ {131}\) and associated with the dauphin,\(^ {132}\) is somewhat more demonstrative, naming the Atlantic east of Canada ‘Mer de France,’\(^ {133}\) and the Maritimes, ‘Terre des Bretons,’ and showing Roberval with a band of soldiers carrying a brownish-gold flag with a white cross\(^ {134}\) north of the St Lawrence River. The Desceliers world map of 1550,\(^ {135}\) which conceivably was made for King Henri II himself,\(^ {136}\) features the same two names, as well as an inscription relating the failure of Roberval’s expedition, which describes Canada as ‘pays des-

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\(^ {128}\) Ganong, ‘Maps. vi,’ 238, 241


\(^ {130}\) Reproduced in colour in Edme F. Jomard, Les monuments de la géographie ... (Paris 1854), Plates xix.1–xix.6

\(^ {131}\) Ganong, ‘Maps. vi,’ 241

\(^ {132}\) C.A. Burland, ‘A Note on the Desceliers’ Mappemonde of 1546 in the John Rylands Library,’ Bulletin of the John Rylands Library, xxxiii, 1950–1, 298; ibid., ‘A Map of Canada in 1546,’ Geographical Magazine, xxiv, 1951–2, 103; Anthiaume, Cartes, 1, 86. The map’s decorative border incorporates nine coats of arms, six of which appear to be those of the French crown, two of the dauphin, and one of unknown origin.

\(^ {133}\) The ocean east of old Florida is styled ‘Mer Despaigne.’

\(^ {134}\) This, at least, is the colouring in Jomard, Monuments, Plate xix.1. The flag has not been identified.

\(^ {135}\) Reproduced in Crawford, Facsimiles

\(^ {136}\) The map shows three coats of arms belonging, respectively, to the French crown, Anne de Montmorency, High Constable or Marshal of France, and Claude d’Annebaut, admiral of France; Coote, ‘Introduction,’ 16; Anthiaume, Cartes, 1, 89–90; V.A. Malte-Brun, ‘Un géographe français du xvié siècle retrouvé, Pierre Desceliers et ses deux portulans,’ Bulletin de la Société de Géographie, 6th series, xii, 1876, 296.
The legal documentation for the events reviewed here is incomplete, and the diplomatic record fragmentary. Our conclusions are necessarily provisional.

Available evidence does not warrant the conclusion that France prior to 1560 officially asserted territorial rights in North America in a clear or sustained manner, or that its explorers launched territorial claims on its behalf. Verrazzano’s primary aim in his 1524 expedition was to discover a route to the East. There are no reliable indications that he claimed the coasts surveyed, and no commission survives to testify whether he was authorized to do so. Cartier’s first two voyages were also undertaken in the hope of discovering a strait to Asia and perhaps realms of gold. While it is possible that the coats of arms planted at Gaspé and Québec symbolized territorial pretensions, neither the Relations nor the diplomatic record clearly indicate this. The supposed commission of October 1533 from Admiral Chabot which La Roncière quotes does authorize conquests in the New World, but it remains to be authenticated. That of October 1534 from the French admiral employs veiled language and does not explicitly envisage territorial acquisitions. The story that after Cartier’s first voyage, France obtained a papal decision clearing the way for an American empire is doubtful. Its germ may lie in the Franco-Spanish dispute of 1540–1; if so, the possibility that the pope resolved that controversy in France’s favour merits further investigation. Significantly, Cartier’s commission of 1540, which is the earliest such instrument extant emanating directly from the French crown, neither assumes pre-existing French rights in the New World, nor confers authority to acquire lands there. The first undoubted grant of such authority occurs in Roberval’s commission of 1541, unaccompanied by claims of dominion based on earlier voyages.

The only clear instance of an official French claim in North America during this period occurs in a conversation of December 1540 between

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137 Transcribed in Ganong, ‘Maps,’ vi, 173
138 The later Desceliers world map of 1553 has no apparent royal links; it is reproduced in Eugen Oberhummer, ed., _Dei Weltkarte des Pierre Desceliers von 1553_ (Wein 1924). Curiously, it places five rectangular flags in Canada; one is a dark cross on a medium dark background; the others cannot be made out, but may carry designs or inscriptions. I have not been able to examine the Le Testu atlas of 1555, which is dedicated to the admiral of France; Anthiaume, _Cartes_, i, 104
François I and the Spanish ambassador. The French king roundly asserts that certain lands in the New World were discovered and acquired by his predecessors more than three decades before Columbus. The context does not reveal whether this claim was a passing fancy or a considered statement; but it is interesting that the voyages of Verrazzano and Cartier are not cited. On other occasions France founded its challenge to the Iberian monopoly of the New World, not upon rival claims of its own, but upon deficiencies in its opponents' titles and the principles of free navigation and commerce. Pretensions to territories not actually controlled were rejected, whether based upon papal concessions, priority in discovery and exploration, or money and efforts expended. The Spanish ambassador was probably correct in saying that France recognized claims only to the 'populated and defended places.' It is interesting that Spain in response was willing to tailor its position accordingly, playing down the papal concessions and stressing the fact that it had discovered, conquered, and settled the Indies at great cost, and continued in peaceful possession. The difficulty, of course, lay in proving the geographical extent of such possession, and here France was on strong ground.

The principles invoked by France in countering Iberian assertions logically placed a severe constraint upon its own claims, as it controlled virtually nothing in North America beyond a few fishing stations. In seeking to break the Spanish and Portuguese monopoly, France could not easily assert for itself the benefit of supposed modes of acquisition, such as discovery and symbolic acts, which once admitted might support extensive Iberian claims. In this perspective, the royal arms planted by Cartier at Gaspé and Québec, if indeed they had any juridical significance, could at most represent the formal commencement of the process of acquisition, evidencing an intent to acquire, but requiring completion by the establishment of factual control.

It does not appear that France denied the capacity of indigenous American groups to conduct relations with Christian powers, or regarded their lands as territrium nullius. The evidence is sparse, but it suggests that France accepted these peoples as independent political entities, with authority over the lands they possessed. Thus the French admiral is reported as stating in 1527 that the indigenous peoples of Brazil 'ont le droit de vendre leurs produits à qui ils veulent, s'ils sont libres et non pas vassaux.' A decade later the baron of Saint-Blancard argued that the Portuguese king lacked dominion and jurisdiction over the 'Brazilian islands,' as the native peoples had submitted to no laws beyond their own. In 1541 François I told the Portuguese ambassador that he 'intended to preserve friendship and good understanding with
certain princes of the Indies.' If France held that it might enter into alliances with indigenous American polities, it also asserted that it might at its own option conquer them, as Roberval’s commission indicates. The justification given for such conquests was the spreading of the true Faith. While religion was invoked to provide a legal cloak for imperial adventures, it was not viewed as barring relations with non-Christian peoples, whenever convenient. One recalls the justification given by François I to Pope Paul III for his 1535 treaty with the Ottoman empire.139 ‘Les Turcs,’ he stated, ‘ne sont pas placés en dehors de la société humaine de sorte que nous aurions plus de rapports avec les brutes qu’avec les infidèles. C’est méconnaître les liens que la nature établit entre les hommes; ils ont tous la même origine; rien n’est étranger à l’homme de ce qui regarde son semblable ... Les erreurs des hommes et leur imperfection les empêchent de s’unir en une même religion; mais la diversité du culte, pas plus que celle des coutumes, ne détruit l’association naturelle de l’humanité.’

139 Ernest Nys, Les origines du droit international (Bruxelles 1894). 162–3