

appointed in case of a difference of opinion. At the present time, there was a High Commission about to sit at Washington; and, in that case, unanimity must prevail, if its decision was to be final and conclusive. It would be seen how peculiar was the position of the three arbitrators in question. If they had come to different conclusions, would each have made a separate report? Would each of those reports, in that case, have prevailed? No provision, in fact, was made for an umpire to decide, in the British North America Act. But he could go further and say that the arbitrators did actually differ from each other, as to the particular basis to be adopted for the division of the debts and assets. The arbitrators had a very important duty to perform, and so far as the arbitrator for Ontario was concerned, he had the confidence of his section of the Dominion, and of the whole Confederation as well. (Hear, hear.) That honourable gentleman was well qualified to perform the duties entrusted to him. If anything could be brought to his charge, it would only be as Talleyrand said to his ambassadors, "pas trop de zèle", not too much zeal. He had worked patriotically for his section, and had succeeded so well as to obtain an award giving Ontario more than had been previously claimed for her by her advocates. As respects the arbitrator for Quebec, his reputation had been won at the bar and on the bench, and stood deservedly high throughout the province. The people of Quebec felt that their interests were secure whilst he remained on the arbitration. But the appointment made by the Dominion was not so fortunate. If some gentleman of high standing had been chosen out of the Dominion, in Great Britain for instance, it would have certainly given more satisfaction to all sections of the Confederation. The gentleman who was actually appointed might have been supposed to be competent at the time, but it was to be confessed that one circumstance had the effect of shaking that confidence reposed in him at the outset. It was to be regretted that he had accepted subordinate employment in one of the departments of the Government of the Confederation, and thereby lessened confidence in him. He (Mr. Tessier) had no doubt that gentleman acted conscientiously, but it was certainly notorious that the fact of his remaining in the arbitration and assisting in doing some other work for the Dominion Government was not viewed with satisfaction in Quebec, nor even in Ontario. Now, it appeared from the printed opinions of the arbitrators that they did not agree in opinion. For instance, Hon. Mr. Macpherson said:

"On the whole, it is with the utmost confidence submitted that the ratio deduced from population, as ascertained by the Census of 1861, is, of all modes suggested, the most *just*; for when liabilities have to be laid upon a whole people, who possess

à Washington; dans ce cas, il doit y avoir unanimité si la décision doit être «définitive et concluante.» On peut voir dans quelle position étrange se trouvaient les trois arbitres en question. S'ils arrivent à des conclusions différentes, chacun doit-il faire un rapport séparé? Dans ce cas, chacun doit-il prédominer? Dans l'Acte de l'Amérique du Nord britannique, aucune disposition ne permet à un juge de décider. Il (l'honorable M. Tessier) ajoute que les arbitres divergent effectivement d'opinion sur l'adoption d'une base particulière de la répartition des dettes et de l'actif. Les arbitres exercent une importante fonction et, en ce qui concerne celui de l'Ontario, il a la confiance de cette province et de l'ensemble de la Confédération (très bien)! L'honorable arbitre possède les qualités nécessaires pour s'acquitter du devoir qui lui incombe. La seule remarque qu'on pourrait lui faire est la même que Talleyrand fit à ses ambassadeurs, «pas trop de zèle». Il a travaillé de façon patriotique et a tellement bien réussi qu'il a obtenu une décision donnant à l'Ontario plus que ne l'avaient demandé ses défenseurs. En ce qui concerne l'arbitre du Québec, il a acquis, au barreau et à la Cour, une réputation qui, à juste titre, demeure excellente dans toute la province. Tant que ce dernier occupe son poste, les Québécois sentent que leurs intérêts sont protégés. Mais le choix de la Puissance n'a pas été aussi heureux. Si quelque gentilhomme haut placé avait été choisi à l'extérieur de la Puissance, en Grande-Bretagne par exemple, il y aurait certainement eu plus de satisfaction dans toutes les parties du pays. L'arbitre choisi paraissait sans doute compétent lors de sa nomination, mais un regrettable incident a eu pour effet d'ébranler la confiance qui reposait sur lui au début. Il est regrettable qu'il ait accepté un poste inférieur dans un des ministères du gouvernement de la Confédération et ait ainsi diminué la confiance que les gens lui portaient. Selon lui (M. Tessier), l'arbitre a agi consciencieusement, le fait qu'il demeure arbitre et travaille ailleurs pour le gouvernement fédéral, n'était pas vu d'un bon œil ni par les Québécois, ni même par les Ontariens. Du rapport écrit, il ressort que les arbitres ne sont pas d'accord. Par exemple, l'honorable Macpherson dit:

«Dans l'ensemble, on peut dire avec la plus grande certitude que le taux calculé selon le recensement de 1861 constitue la méthode la plus juste parmi les méthodes suggérées. En effet, lorsque des responsabilités sont imposées à des gens comme les