

CALENDAR FOR WEEK ENDING JULY 23, 1870.

SUNDAY, July 17.—5th Sunday after Trinity. Battle of Mac-kinac, 1812.
 MONDAY, " 18.—French invasion of England repelled, 1545. Battle of Bull's Run, 1861.
 TUESDAY, " 19.—Petrarch died, 1374. George IV. crowned, 1821.
 WEDNESDAY, " 20.—St. Margaret, V. M. Spanish Armada destroyed, 1538. First stone of the Victoria Bridge laid, 1854.
 THURSDAY, " 21.—De la Barre's expedition against the Senecas, 1684. Burns died, 1796.
 FRIDAY, " 22.—St. Mary Magdalene. Battle of Tyconderoga, 1759.
 SATURDAY, " 23.—Invention of Printing, 1440. Canada Union assented to, 1840.

THE CANADIAN ILLUSTRATED NEWS.

MONTREAL SATURDAY JULY 16 1870

THE arbitration between the provinces of Ontario and Quebec has come to a sudden and unsatisfactory standstill. The crisis occurred on Saturday last, when the Hon. Judge Day, arbitrator for the province of Quebec, being unable to agree with the Hon. D. L. Macpherson and the Hon. Mr. Gray, tendered his resignation to the Quebec Government. The *Montreal Gazette* says that no doubt it will be accepted. Matters have been further complicated by the Quebec Government instructing their counsel to recuse the Hon. Mr. Gray on the ground that he is—contrary to the statute—a resident of the province of Ontario. Thus, after three years of confederation, there has grown up a bitter antagonism between the old partners to the Union of 1841; and they quarrel, as so many whilom fast friends have done before, over money matters.

The surplus debt to be divided between the provinces is about ten and a half millions of dollars, being the excess owing by Canada over the sixty-two and a half million with which she was entitled to enter the Union. The arbitrators up to this time, or up to the 8th inst., when their proceedings were suspended, have devoted their attention to the establishing of a general principle by which all the items might be apportioned. In this preliminary work counsel have been heard on both sides, Messrs. Casault and Ritchie appearing for Quebec, and Hon. J. H. Cameron for Ontario. Arguments, learned and lengthy, were listened to and weighed, and on the 28th May a decision was arrived at and approved by Messrs. Macpherson and Gray, from which Judge Day dissented. Thereafter the Quebec Cabinet passed a minute of council, (June 6th) setting forth the opinion of the Provincial law officers of the Crown, that "it is essential to the validity of any decision by the arbitrators that their judgment be unanimously concurred in." This minute will, of course, be considered by the Dominion law officers of the Crown; and if not approved by them, will, probably, be sent home for the judgment of the Imperial law officers. If then the arbitration is not entirely broken up, it is at least suspended for many months to come; in fact, it appears as if the province of Quebec had abandoned the arbitration, trusting to get the case "into Parliament again," with the hope of making better terms there.

There is a good deal to be said on both sides of this unfortunate quarrel; but the first thing that strikes one on looking at the British North America Act is the entire absence of rules or restrictions to guide the conduct of the arbitrators. The 142nd section of that Act simply says, "The division and adjustment of the debts, &c., of Upper Canada and Lower Canada shall be referred to the arbitration of three arbitrators, one chosen by the Government of Ontario; one by the Government of Quebec, and one by the Government of Canada, and the selection of the arbitrators shall not be made until the Parliament of Canada, and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec." Beyond this there is nothing to guide them save the fourth schedule attached to the Act, which declares what are the "assets to be the property of Ontario and Quebec conjointly." The absence of all restrictions except as to the mere appointment of the arbitrators, coupled with the positive enactment that "the division and adjustment . . . shall be referred to the arbitration of three arbitrators," &c., plainly indicated that the wildest possible latitude was contemplated by the framers of the act; and that while the right of appointment by the Provinces would give them the opportunity of representing their own particular views at the Board, yet they should have no legal control over its action. In fact the three governments, having once appointed the arbitrators, ceased to have any control over them, so far as the law was concerned; and doubtless the intention of the

London Conference really was to place the settlement beyond Provincial control. We think the wisdom of that course must have suggested itself to the Canadian members of the London Conference, knowing, as they well did, that in respect of money matters there was a chronic quarrel between Canada East and Canada West; and that a settlement between them without the intervention of a third party would have been impossible. We assume, therefore, that in law the Provincial right of interference with arbitration, save by counsel, as before any court wherein a suit is pending, ceased when the appointments were made. Hence, probably, the resignation of Judge Day as the only means Quebec had of interfering with the progress of the arbitration.

The most serious point of disagreement between Ontario and Quebec is as to where the arbitration should begin. Counsel for Quebec contended that the principles regulating universal partnerships should be made to apply to the division of assets and apportionment of liabilities as far as possible; in other words, that it would be the duty of the arbitrators to take into the account the amount of debt or assets with which Upper Canada and Lower Canada respectively entered the old union in 1841. Upon this point Quebec has been very positive; and Judge Day has strongly sustained the correctness of the same view in his dissent from the judgment of his colleagues. On the other hand, Ontario has argued, and the Hon. Messrs. Macpherson and Gray have adopted the view, that the Imperial act uniting Upper and Lower Canada did not in law nor in fact create such relations between them as arise from a partnership between individuals; and that the arbitrators have no power to enter upon an enquiry into the relative state of the debts of Upper and Lower Canada at the time of their union in 1841. There are other points of difference between the arbitrators, but the main one is that already stated. It appears that the wording of the British North America Act rather favours the Quebec view, in so far as leaving the arbitrators power to deal with the assets and liabilities of the two Provinces at the time of the union in 1841. It is to be remarked that by the 142nd section already quoted, "Ontario" and "Quebec" are authorized to appoint the arbitrators; but the debts, &c., of "Upper Canada and Lower Canada" are to be adjudicated on. This in connection with the 6th section, which says: "The parts of the Province of Canada (as it existed at the passing of this act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada, shall be deemed to be severed and form two Provinces." Upper Canada and Lower Canada are thus clearly recognised as anterior to the Union of '41, and had the framers of the B. N. A. Act intended to restrict the arbitrators—as Ontario pretends and Quebec denies,—they surely would have spoken of the adjustment and division of the assets, &c., of the "Province of Canada" between the Provinces of Ontario and Quebec. It thus appears that it was not contemplated to restrict the arbitration to all matters after the Union; at least if such was the intention the Act is very strangely worded.

With respect to the recusation of Hon. Col. Gray we must say that it appears a shabby proceeding. Col. Gray was not a resident either in Ontario or Quebec when he was appointed arbitrator on the part of the Dominion; he came to reside at Ottawa after his appointment, and very likely in some degree because of it. He is yet a member of the House of Commons representing a New Brunswick constituency, and his presence now in Ottawa certainly does not contravene the spirit of the Act. But if so, why did Quebec go on conferring with the arbitrators, and with members of the local and general Governments on this very settlement, knowing all the time that Col. Gray was a boarder at Mr. Gouin's Hotel in Ottawa? Why not challenge him in February last, when the arbitrators told counsel on both sides that the argument was closed, and they were to determine judgment? It would then have come with a better grace than in July, when his name was recorded in opposition to the views of Judge Day.

This disagreement between the arbitrators is sincerely to be regretted, as it will revive sectional hatreds that appeared to have been forgotten. Already some of the newspapers East and West have begun to hector the Province to which they do not belong; and the arbitrators—Hon. Mr. Macpherson by the Quebec, and Judge Day by the Ontario, press—are receiving undeserved abuse, because in the exercise of their best judgment they failed to come to the same conclusion. How seldom do we see the full Bench of even the highest courts in the land deliver judgment on important cases without some member dissenting! And in this case it was no wonder, that in attempting to fix general principles for the settlement of an affair so vast, and so very complicated in its nature, these two gentlemen should have arrived at different conclusions. Though cause of regret it is surely no cause for disparagement, or personal abuse on either side. The interests and the consequences involved are of sufficient

importance to warrant a renewed effort upon some other basis of action than that contained in the propositions upon which the disagreement has already taken place.

LIEUT.-COL. JARVIS.—In the brief biographical notice of Lieut.-Col. Jarvis, commanding the Ontario wing of the Red River expedition, which appeared in last week's *News*, there is a slight error as to his rank in the regular army. Instead of saying he was brevet Major in the 82nd Regt., we should have said he was Major in the 82nd, and brevet Lieut.-Col. in the army.

OBITUARY.

HON. GEORGE CRAWFORD, SENATOR.

The late Mr. Crawford, Member of the Canadian Senate, who died at Brockville on the 5th inst., was a native of the county Leitrim, Ireland, where he was born in 1792, and was, consequently, in his seventy-eighth year at the time of his death. He emigrated to Canada fifty years ago, and at first devoted his attention to farming; but subsequently sold out his farm and became a contractor on the Rideau Canal, which, some ten years after his arrival, was under construction by Col. By. Thence he removed to Cornwall, where he obtained a contract on the canal then being built there. He obtained another contract on the Beauharnois Canal, and having completed all these satisfactorily to the Government, and it is to be supposed with advantage to himself, he settled in the neighbourhood of Brockville, where he resided up to the time of his death. In 1851 he was returned to the Legislative Assembly for the town of Brockville; and again, in 1854, was returned for the same constituency. He was a supporter of the Hincks ministry until its defeat in 1854, and then he supported the Coalition at that time formed under the leadership of Sir Allan Macnab. In October, 1858, the Legislative Council having been made elective two years before, he offered himself and was returned for the St. Lawrence Division, for which he continued to sit until the Union, when he was called to the Senate by the Queen's proclamation. Deceased was a man of excellent business habits, and highly honourable character; and his death, though not by any means unexpected, will have caused a pang to many warmly attached friends throughout the country. Though he had been ailing for some time, he yet attended to his Senatorial duties during the greater portion of the last session of Parliament. Two of his sons are now members of the House of Commons, viz., the eldest, James Crawford, Esq., M. P. for Brockville; and the second, John Crawford, Esq., Q. C., of Toronto, M. P. for South Leeds.

LITERARY NOTICES.

"THE CHILD'S HISTORY OF CANADA," and "THE SCHOOL HISTORY OF CANADA," by Henry H. Miles, M. A., L. L. D., D. C. L.: Dawson Bros., Montreal.

These school editions of the "History of Canada" are valuable and praiseworthy additions to educational literature, and are but the precursors of a large and more elaborate history of a more popular character, still in the press.

Dr. Miles has undertaken a task of no mean difficulty, which he has, so far, accomplished with success. From historical records, in various quarters, deeply tinged with the bitter party feelings of the day, he has culled the facts of history and placed them beneath a veil of humanity, exalting the virtues and shading the vices of the dead heroes of our land. It is significant of the success with which he has fulfilled the requirements of this generation, that his works are recommended for adoption both by the Catholic and Protestant Boards of Education, and that children, whose ancestors were once at war for conquest, will here together learn the history of those events which have led to so peaceful and prosperous an issue. Instead of being translated into French, these works will be adopted in the French schools as English Readers, and the simplicity and elegance of the diction justifies this distinction.

"The Child's History" is a series of narratives or tales, written with great simplicity and with a verve likely to impress the memories of the young.

The following chapter on "The Indians and the Peltry Trade," (enlivened by two excellent woodcuts) will afford an illustration.

"39. In the history of Canada we often find mention made of the Indians, and of the traffic in furs and skins carried on with them. To these we think it well to devote a chapter before we go on further with the history.

"Why were the natives of North America called Indians?"

"In order to answer this question, the young reader must bear in mind that when Columbus, and the other early navigators, first reached the islands and continent of America, they supposed them to be parts of Asia—such as Japan, China, and the East Indies. The natives, also, were seen to have dark complexions, and, in some other respects, to be like those of Asia. So they all came to be called Indians. Even when it was found out that America was not part of Asia, the name first given by mistake, to the savages, was not changed.

"40. The Indians with whom we have here to do were those of New France. They consisted of many tribes, but it would be tiresome to state all their names. The principal ones were the Algonquins, Hurons, Montagnais, and Ottawaes. There were also the Micmacs of Nova Scotia, the Abenakis of the region now called Maine, and five tribes of very fierce people named Iroquois.

"The Indians whom Jacques Cartier saw at the mouth of