it has been caused by the omission of the ex-ministers to submit the railway bill with their reasons for deeming it neces, sary in the public interest, to the Lieuten. ant-Governor before introducing it to the House. But for this omission, although a crisis might and probably would have occurred, there could have been no mistake as to the real question at issue. As it is the ex-ministers seem determined to rest their case not on the merits of their railway and financial policy, but on an issue on which according to the authorities which we have quoted above they are undoubtedly wrong. The extracts from a speech of the Earl of Dufferin from Bagehot, May, and others, cited by Mr. Chapleau, are not in point as they do not bear on the point at issue, viz., the propriety of a minister introducing a bill into Parliament with the express sanction of the Crown on which the Representative of the Crown had never been consulted.

We have devoted so much space to our review of Mr. Chapleau's speech, that we must be very brief indeed in our notice of a long article in the *Gazette* of yesterday, and of a speech by Mr. W. H. Kerr, Q. C., the candidate for Montreal centre in the interest of the ex-ministers, but who at the very commencement of his speech singularly enough, declares that he himself *disapproved* of the very measures, the introduction of which led to the crisis. Mr. Kerr goes further against the ex-ministers than we are prepared to do. We shall not be driven from our position. We have not defended the wisdom of the Lieutenant-Governor's dismissal of his ministers, nor have we said one word against the railway bill, which has been most ably defended by Mr. Wurtele in a speech which we regret has only been published in French. We concur in every single extract cited in the *Gazette* and referred to by Mr. Kerr, but we maintain that they are no more in point than those cited by Mr. Chapleau and already criticized in this article. We beg to inform the *Gazette* that the Lafontaine-Baldwin administration adhered most scrupulously to the constitutional practice of invariably taking the pleasure of the Crown on all questions whether legislative or administrative in proper time and in strict accordance with the authorities which we have cited above. Mr. Kerr has, we admit, raised a completely new issue, and one which we can only refer to very briefly. It has not been raised by Mr. Chapleau nor by the *Gazette*. It is simply this. Mr. Kerr denies that the Lieutenant-Governor exercises "the same rights and prerogatives as Governor General" and maintains that a Lieutenant-Governor "under "Confederation was a very different "thing from a Governor General of a "Province in old Canada." With all due submission to so eminent a member of the legal profession, we submit that this line of argument is contrary to common sense. Our whole system of Government depends on the prerogatives of the Crown being exercised in the local affairs of the Province by some one. Most assuredly they are not exercised within the Province of Quebec by the Governor General, not even when he resides temporarily in Quebec. Mr. Kerr's extraordinary remarks on this head opens up a wide field for controversy into which we cannot enter at present. Meantime it will of course be understood that our arguments are based on the belief that the Lieutenant-Governor of the Province is vested with the prerogatives of the Crown in the administration of our local affairs.

THE FISHERY AWARD.

Mr. Blaine, Senator for the State of Maine, has made a strong speech against the late fishery award, his chief object without doubt having been to give expression to the views of the people of the Eastern States, who would like to take our fisheries and our forests, and all that belongs to us, without compensation of any kind. Mr. Blaine's speech has had a good effect, as it has drawn forth a letter addressed to the New York *Tribune* by Dr. Woolsey, LL.D., ex-president of Yale College and a very high authority on questions of international law. We reproduce that letter, which merits a careful perusal. The writer cites authorities of great weight, and, after establishing the legality of the award, he briefly disposes of the objection taken to the nomination of Mr. Delfosse, the third arbitrator. Dr. Woolsey considers the award "inordinately great," but there is nothing in his letter to lead us to infer that he has read the evidence on which it was based. We cannot believe it possible that there will be any hesitation about paying the award of the commissioners.

(*To the Editor of the New York Tribune.*)

SIR,—Mr. Blaine, in a recent speech on the arbitration at Halifax, says that, in the absence of a stipulation to the contrary, a unanimous award is necessary. This, he says, is the general law of arbitration, and then quotes several English authorities to prove his point. One of them, Mr. Kyd, "after alluding to the Roman law and to its permission for the majority of the arbitrators to decide," is made to say that "in this respect the law of England s somewhat different," etc. It will be seen by this passage that the arbitration in this case was in his opinion, not controlled by Roman but by English law. The same appears from another remark to the effect that, in the arbitration at Geneva, if it had not been expressly provided that an award by a majority was to be binding, a single negative vote might have made the proceedings of no effect. The truth is, however, that international proceedings, in cases of arbitration, follow Roman law unless the contrary is expressly provided. The authorities are too many and too clear to allow this to be doubted.

In the first place, Roman law regarded a majority in a board of arbitrators to be competent to give a valid decision. Ulpian says on this point that a "compromise (or arbitration), where the number of arbitrators is unequal, is allowed, not because it is easy for all to agree, but because, should there be disagreement, a majority can be had, according to whose decision the matter may be settled." So the civil lawyer, J. Voet, says that "if several arbitrators are chosen and disagree in their award, that which has the majority of them in its favour is to be held valid."

Again, I shall show that the authorities in international law have held the same opinion. And first, Sir R. Philimore says (II., p. 4) that "if there be an uneven number of arbitrators the opinion of the majority would, according to the reason of the thing and the *jus commune*, be conclusive."

Heffter says (sec. 109) that "differences of opinion arise. It is unquestionable that the majority is to be regarded as deciding the matter. In case of a tie or a complete dissonance of opinions, a further arbitration could be reached only by consent of the parties concerned."

Bluntschli's rule is "that the award of the majority has authority, as if it were the award of the body of arbitrators." (Sec. 493.)

Calvo (I. 790) writes as follows:—"In the absence of obligations clearly laid down in the act of compromise, the arbitrators, in order to discharge their trust, guide themselves by the rules laid down in the civil law. Thus they should have a joint procedure, should discuss and deliberate, and should decide by a majority."

To mention but one opinion more, Dr. Goldschmidt, in his project of international arbitration, laid before the "Institut du Droit International" in 1874, which is, perhaps, the most important work on this subject that has appeared, lays down the following rule:—"The arbitral sentence is to be reduced to writing, and to be signed by each one of the members with his own hand. If a minority declines to subscribe, the subscription of the majority is enough, together with a written declaration that the minority have refused their signature. But it should be added that this represents rather what ought to be than what is, although it in the main conforms to actual law.

Often where there is an even number of arbitrators, two, for instance, provision is made for an umpire. The leading motive for this usually is that a majority may be possible.

A word in regard to M. Delfosse, and the statement that there was a kind of understanding that he should not be proposed to our Government. What has that to do with the matter? If he was accepted by the United States, what more was wanted? Our objections, if we had any, ought never to be mentioned afterwards. The writer of these remarks considers the award as inordinately great; but our faith is pledged, and if for the reasons mentioned by the honourable Senator we should refuse to pay the award within the time agreed upon, England would have a claim against us, and Belgium a ground of complaint for a want of courtesy to her Ambassador.

T. D. W.

New Haven, March 13, 1878.

— A section of the American press is agitating against paying the fishery award. The highest authorities express the opinion that the award is just as binding as if it had been made unanimously, but then it suits such papers as the New York *Herald* to act on the repudiation principle. Their anti-British feeling will carry them to any length. It is expected the President will recommend payment.