

THE DOMINION ARBITRATION—LIABILITY FOR ACCIDENTS.

DIARY FOR AUGUST.

1. Mon. *Lammas.*
7. SUN. *8th Sunday after Trinity.*
13. Sat.. Last day for County Clerks to certify County rates to Municipalities and Counties.
14. SUN. *9th Sunday after Trinity.*
18. Thur. Last day for setting down and giving notice for re-hearing.
21. SUN. *10th Sunday after Trinity.* Long Vacation ends.
24. Wed. *St. Bartholomew.*
25. Thur. Re-hearing Term in Chancery commences.
28. SUN. *11th Sunday after Trinity.*
29. Mon. County Court (York) Term begins.

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THE DOMINION ARBITRATION.

The report of the proceedings on this important matter, which we publish in other columns, will be read with interest, not altogether for its intrinsic value as a decision upon a point which is new in this country, but more as a history of the case in its legal aspect.

As to the merits of the case, we have nothing to do, but as to the main legal point, whether the arbitration could proceed without all the arbitrators being unanimous, it is contended that if it were merely a private arbitration there would be no room for doubt, but, as it is unquestionably of a public nature, it is contended that that fact makes all the difference and obviates the necessity of unanimity amongst the arbitrators. The majority of the authorities and those most in point are American, though there are English cases which seem to admit the principle contended for, bear out the contention.

It seems reasonable to look upon the arbitrators appointed under the provisions of the British North America Act, 1867, in the nature of a court ordained for a special purpose, and if a court, then clearly the majority rule.

It is true that the statute speaks of the "arbitrators;" but the mere use of that word does not necessarily prevent their being in reality something more than mere private arbitrators, and subject to the rule of law applicable to such; and the whole scope and tenor of the British North America Act, 1867, shews that something more was intended—and it may be remarked that even Judge Day does not appear to have expressed an opinion adverse to his co-arbitrators on this point.

We can scarcely imagine what the government of Quebec expected to take by the writ of prohibition which was issued from one of the courts of that Province, returnable next month, except it is desired to force the case to England for a final decision, and this would seem to be the object aimed at, though we doubt if that object will be attained, or if attained, that the result will be satisfactory to the promoters of the writ.

The objection that Col. Gray is a resident of Ontario, and therefore ineligible (when in fact he was a resident of New Brunswick when appointed, and moved to Ottawa to attend to his public duties), seems so feeble, not to say childish, as to betoken a weakness which cannot but damage the case of the Quebec government, both in a political and legal point of view.

The result of these proceedings will be looked for with much interest, whether viewed as a mere question of law on the point of unanimity, or on account of the large amounts at stake, the political bearing of the case, or the important constitutional questions involved.

LIABILITY FOR ACCIDENTS.

We have read with much interest a pamphlet sent to us some time since on "The Evils of the Unlimited Liability of Masters and Railway Companies for Accidents arising from the negligence of Servants, especially since Lord Campbell's Act." The paper is written by Joseph Brown, Esq., Q.C., and was read before the Social Science Association.

The view most favorable to masters and railway companies is advocated very strongly and very ably, but we cannot but feel that the zeal of the writer in the cause he upholds has led him into enunciating some opinions which can scarcely be sustained.

One evil that he complains of is—"the great number of such actions and the length of time which the trial of them occupies, to the hindrance and delay of commercial and other important business"—is certainly not felt in this country as such a hardship as requires any serious consideration.

There is however, much truth in the following remarks:—

"The great evils, however, which I have mentioned, serious as they are, are not those to which I have undertaken to call the attention of the Society. The great and crying evil belong-