

“nership account it is necessary to distinguish joint estate from separate estate ;
 “joint debts from separate debts ; and to determine what gains and what losses
 “are to be placed to the joint account of all the partners, or to the separate
 “account of some or one of them exclusively.”—*Lindley's Law of Partnership*
 p. 828.

This author goes on to say—“ The principles on which this is to be done have
 “been explained in previous chapters. Referring the reader therefore to them, and
 “reminding him that in taking the accounts between partners, attention must be
 “paid, not only to the terms of the partnership articles, but also to the manner in
 “which they have been acted on by the partners, there remains but little to add
 “on the present subject, except as regards just allowances, the period over which
 “the account is to extend and the evidence upon which it is to be taken.”

In the latter quotation reference is made to “ the terms of the partnership
 “articles, and the manner in which they have been acted on by the partners.”
 In the present case reference to the Union Act of 1840, and to the manner in
 which the provisions of that act were acted on during the Union, as evidenced by
 the Statutes passed under it, including the appropriation acts for each year, and
 the records contained in the Public Accounts published annually, *would, in any
 court of law or equity forever preclude any other accounting than an equal division
 of the excess of debt and of the assets.* I make this observation to show that this
 portion of the direction of the author in taking the account is inapplicable in the
 view I am now discussing of applying the partnership principle to the adjustment
 of the debts, credits &c., of the Provinces. For if reference is made “ to the terms
 “of the articles of partnership, and to the manner in which they have been acted
 on,” for one purpose, it must be for all purposes. They must be excluded entirely,
 or acted upon altogether in respect of all matters to which they apply ; and in the
 present case they apply to every transaction whatever. But assuming they do
 not apply, and assuming that the “*charge on the Rates and Duties*” of Upper
 Canada, called its debt, as also the state of the Exchequer of Lower Canada, called
 its credit or cash in hand, are to be taken into account in the apportionment of the
 excess of debt and the division of the assets, it inevitably follows as a rule of law,
 sanctioned by every principle of justice, that the account between Upper and Lower
 Canada must be taken as follows:—

1. An account of the debt of each Province at the Union, assumed by United
 Canada.

2. An account of the value of the assets in the nature of public works of each
 Province transferred to United Canada.

3. An account of the net revenue derived from each Province, during the
 Union from sources other than from public works which were provincial in their
 character, and although situate entirely in one Province were common to both,
 as for example the Welland Canal, St. Lawrence Canals, Lake St. Peter Works,
 Chambly Canal, Works on the Ottawa, Slides, &c.

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