

Spanish West Indies—in which Nova Scotia and New Brunswick take a more prominent part—and with that article to conclude the series.

QUEBEC AND ONTARIO—APPORTIONMENT OF THE SURPLUS DEBT.

The proceedings of the arbitrators appointed to adjust the proportions of debt to be respectively borne by Ontario and Quebec, and to divide the assets between them, have been suddenly disturbed by the resignation of Judge Day, the arbitrator for Quebec. He dissented from the basis of procedure adopted by the other two arbitrators, and resigned on their communicating to the two governments interested the preliminary decision arrived at. It is probable that, on taking this step, he acted upon instructions or advice from the government he represented. To fully understand the position of the question, we must look to the arguments of counsel on the propositions in dispute. Ontario, through Mr. Wood, as counsel, and the Hon. Mr. McPherson, as arbitrator, suggested three several bases of settlement. One was to go back to the origin of the debt: another was population; the third, the value of the capitalized assets. It was one of the conditions of federation that the Dominion was to commence with a debt not greater than sixty-two millions; and the balance of the debt of the late united Province of Canada was to be borne by the Provinces of Quebec and Ontario but in what proportion it is the province of the arbitrators to determine. Mr. Wood, treasurer for Ontario, and counsel in the arbitration, assumes that the excess will be at least ten millions five hundred thousand dollars, which these two provinces will have to shoulder, in proportions to be determined.

Quebec, through its counsel, insisted on the late connection being looked on as a sort of partnership; not as a partnership all through, but as a partnership at the beginning and the end of the union; at the beginning, to ascertain what stock or capital and notes, if any, each brought in, and at the end to see what each was to get, on the supposition that the partnership profits or revenue had, in the interim, been fairly divided.

If the origin of local debts were made the basis of settlement, Mr. Wood contended, "the correct principle would be to apportion to Lower Canada the debt created for her local purposes, \$7,000,000, and to Upper Canada, that created for her local purposes, \$10,000,000." The population basis, if the previous one were rejected, might be defended on the ground, that the financial arrangements of the present union were based on population. The last census, that of 1861, was to be the guide. Proceeding to the third

basis, the Upper Canada assets, as given by the auditor, were found to figure up to \$7,017,604.55, taken at their cost, and their present value is set down \$2,117,320.99; while those of Lower Canada were, at cost, \$4,191,032.95, and at present value, \$2,087,001.13. Making the total assets for the two Provinces \$11,208,637.30, when measured by the cost, and representing a present value of \$4,294,322.12. On this proposition Mr. Wood remarks:

"Now it is quite clear that if the debt is to be divided according to the value of the assets which are in each Province, it will be stated thus: As the total value of assets (\$4,204,332.12) is to the value of the assets in each Province (Ontario \$2,117,320.99 and Quebec \$2,087,322.12) so is the excess of debt (\$10,500,000) to that portion of it which each Province should bear; and it is equally clear on the same principle that the assets which should be given to each Province would be—as the total excess of debt is to that portion of it which would by the foregoing proportion fall on each Province, so is the total assets to that portion of them which would belong to each Province."

Messrs. Cassault and Ritchie, counsel for Quebec, combat all the three propositions made on behalf of Ontario. They say that to take the population basis, either at the period of 1861 or 1867, as a guide, without taking into account the respective financial positions of the parties when first united in 1841, "or inquiring in whose interest and in what proportions for each the subsequent indebtedness was incurred, would be most unjust." When we come to the question of how the two Provinces stood at the time of the Union of 1841, we find a singular want of agreement between their respective counsel. The counsel for Quebec tell us that Upper Canada owed \$5,925,779.54, while Lower Canada, it is alleged, had at credit at its banker's, \$189,306.41. Lower Canada, they add, had a larger population, and to place both on an equality at the commencement, Lower Canada would have been entitled to enter the Union with a debt of \$8,715,630.60. Mr. Wood makes the debt of Upper Canada, at the Union, \$5,416,855, and that of Lower Canada \$162,732. Counting assets, he makes the then debt of Upper Canada \$2,675,072, and that of Lower Canada nil.

"The other mode" (says Mr. Wood) "suggested, if its adoption was possible, would be more consonant with the requirements of justice. But to be so, recourse must be had to the true and real origin of the debt, not to that which is the work of mere fancy. It would require to go back to the Union of the two Canadas, take their respective debts and credits at that time, examine in detail all the expenses incurred since, note especially the Province for which or in whose interest it was incurred, and determine thereby the share of each. Such a work would not only entail an amount of labor, and a consideration of circumstances which the arbitrators are not expected to undertake, but would also require a minute examination of the administrative acts of the different governments since 1841, and an accurate

appreciation of the same. In fact, the adoption of this mode is impracticable.

"To take the assets as a guide would be most fallacious, and the more so if only a part of them were taken into consideration. It has often occurred that very important and advantageous outlay for the part of the Province in which it was made, was the most unproductive to the treasury. For instance, the roads in Upper Canada, on which very large sums of money were expended, which tended as much, if not more, than any other expenditure to open up and colonise Ontario, and thereby create its wealth; government nevertheless felt it its interest to surrender for a nominal consideration to private companies or to the several municipalities within which they lie. The assets are silent on that head. Again, the amount set down as the value of public works retained by the Dominion may be fairly contested as between Ontario and Quebec. To the Dominion they are worth their present value; but in determining the origin of the debt, it is not their present value but their original cost which should be considered."

What Quebec proposes to substitute in lieu of all the propositions she rejects, is to treat the case as one of ordinary partnership.

"Adopting this principle, the arbitrators would treat the Union of the two Canadas, from 1841 to 1867, as having been equally advantageous to both, or, in other words, as if each had derived the same benefit from it. Considering that Lower Canada, which came into the Union in 1841 with a large sum at its credit, and a population about one half larger than that of Upper Canada, left in 1867 with comparatively limited resources, and that although Upper Canada entered it with an exhausted treasury and a small population, it left with a much larger number of inhabitants, an annual subsidy which exceeds by \$237,620, representing a capital of \$3,960,333.34, that of its sister Province, and great wealth, it will be admitted that this hypothesis is not partial to Quebec. It will however do away with what has been shown above to be impracticable the minute inspection and appreciation of all the accounts of the Province of Canada during the twenty-six years of its existence, and will leave only the consideration of the financial position of Upper and Lower Canada, when they became united, and the debts, credits, properties or assets, the partition of which is rendered necessary by the dissolution of their partnership."

Quebec may perhaps be right in desiring to treat the connection as a partnership—on that point we do not give an opinion—but it seems too obvious to admit of dispute that if this rule be adopted, it must be followed in all its consequences, and on this point we think Mr. Wood has the best of the argument.

"If," (says Mr. Wood,) "the principle of a general partnership is to be adopted, it must be taken at its full measure and in its full legal and proper length and breadth; not at the beginning and end of the partnership concern, with a discrimination as to the capital; as proposed by Quebec, but the Provinces must be considered as having started as equals in all respects at the beginning, and be treated as equals during its continuance, and at its end and in its winding up. It cannot be taken in any modified form. Even the Council for Quebec are obliged to admit that there is no warrant for the departure from the principles of a general partnership, which they propose by attempting to drag in the question, 'who put in the greater or the smaller capital, and whose assets or revenues were free from or had charges in the shape of debts incumbering them at the beginning; and then at the end or dissolution of the partnership, to attempt to charge the one