

But they next complain that the 17th Clause of the Statute 7 Will. 4, c. 92, has been so interpreted as to withhold all benefit from them, and that there is now due to them, if that Clause were fairly construed, 36 per cent upon their Shares. The terms of this Clause I have already quoted, and your Lordship will observe that it provides that "the remainder of the income," after paying the legal charges and the government interest, shall be divided among the Stockholders until it shall equal six per cent, on their investments. It has been contended by Mr. Merritt on behalf of the Shareholders, that the word "income," means the gross receipts without deduction of the expenses of the Canal, and if this interpretation be correct, the Shareholders are no doubt entitled to the sum stated in their memorial. But it appears to me altogether extravagant and irrational to adopt such an interpretation. If the expenses of the management and repair of the Canal are not to be defrayed from its gross receipts, they must be defrayed from the Public Revenue, and thus the Canal would be kept up at the expense of the Province for the Sole advantage of the private Shareholders, and the anomaly be presented of a concern actually incurring an annual loss and yet making an annual division of profits. Under such an arrangement the party who would suffer by the mismanagement which has taken place, would be, not those who entered upon the undertaking as a monetary speculation, but the Province which came in to assist them in their difficulties, and to rescue them from the embarrassment in which their own miscalculations had involved them. This appears to me altogether preposterous, and I cannot therefore admit that upon this ground the Shareholders have made out their claim to compensation.

In respect to the injury which they incurred by the delay in proclaiming the Act of 1839, and by the priority on the public Revenue of other claims before the Debentures to be issued for their Stock, it is only necessary to say a very few words. The security upon which the Shareholders advanced their money were the Tolls of the Canal. That security still remains to them, and it is at their option to retain it or to accept the Government Debentures in place of their Shares. It can scarcely be said, looking to the proceedings of the Company, that the security is now less than when they loaned their money, or that it has become less marketable by the transfer of the Work, from an irresponsible Direction by whom it had been almost ruined, to responsible and scientific Directors under whom it will be completed and perfected. I have myself no doubt that now that the Works are to be conducted under Government control, the Canal will soon become prosperous and thriving, but whether this be so or not, the Shareholders have no right to claim now at the expense of the public, a better security than they originally bargained for.