

The undersigned sensibly feels the embarrassments attending this question from the total want of evidence of the amount of consumption in either Province of any of the dutiable articles which are the subject of this arbitration, and, under the circumstances of the case as submitted to him, he is of opinion, that there is no principle for the Arbitrators to adopt as a rule of decision but the comparative population of the two Provinces. Should injustice be done to either Province by the adoption of this rule, the undersigned has the consolation to reflect, that the period for which the award will be in force is not a long one, and that before another period arrives for establishing the proportion of duties under the statute, there will be opportunity for either party to devise means for procuring more precise data for making the apportionment.

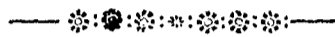
Comparative population being assumed as the basis of the estimate of consumption, the enquiry will be, what is the population of the respective Provinces? The population of Upper Canada, for the present year, is ascertained by official returns to be 156,886. It appears that a law has been lately passed in Lower Canada for making an enumeration of the population therein, and the undersigned thinks it will be necessary to defer making an award until evidence of the population of the Lower Province shall be derived from the returns under this law, unless the honourable the Arbitrators for the respective Provinces, shall feel themselves at liberty to agree upon an estimate of the population of that Province to be admitted as the basis of an immediate award.

(Signed)

WARD CHIPMAN,

*Third Arbitrator.*

Montreal, 21st July, 1825.



#### No. 4.

The undersigned Arbitrator, on the part of the Province of Upper Canada, has the honor to reply to the five Questions proposed on the 18th instant, by the honourable the Third Arbitrator, as follows :

With respect to the first Question, the undersigned begs leave to express his conviction that there exists no correct evidence relating to the actual amount of the dutiable goods which have in late years, passed from Lower into Upper Canada for consumption within the latter Province, and that for many reasons it is quite impracticable to obtain authentic information on that point from any source whatever.

By the articles of the provisional agreement subsisting between the Provinces from 1795 to 1797, the amount of duties payable to Upper Canada was established at one-eighth of the receipts at the Port of Quebec, and this proportion must have been chiefly determined by the supposed amount of the population of Upper Canada when compared with the supposed amount of the population of Lower Canada. In the month of January 1797, when another system was adopted, it was attempted to ascertain the actual consumption of Upper Canada by means of an Inspector stationed at the Coteau du Lac, whose business it was to exact reports of all descriptions of dutiable goods passing upwards by land or water carriage, and to make periodical returns to the governments of the respective Provinces. This system was continued in force until the year 1817, when by a new agreement the proportion of duties on imports payable to Upper Canada, was fixed at one-fifth of the whole, which proportion has been received by that Province under various circumstances, not requiring present notice, up to the period embraced by this arbitration.

On considering the terms of the different agreements thus adverted to, it is evident that great difficulty must have been felt in apportioning to each Province its exact share of revenue. At first a fixed amount of one-eighth was paid Upper Canada, which must have been generally estimated by comparing the probable population and consequent probable consumption of each Province. Next the proportion of revenue for the former was attempted to be ascertained by the returns of the Inspector at the Coteau du Lac ; and when the experience of twenty years had produced loss to one party, and dissatisfaction to both, the inefficacy of that mode of determining the comparative consumption of the Provinces became apparent, and it was found necessary to recur to the original system.

The extension of the settlements along the southern bank of the Ottawa River, and the change which had taken place within the period alluded to, in the state of the intercourse between the Provinces, combined with various other circumstances to render the returns of the joint Inspector imperfect and useless—since the discontinuance of those returns in 1817, no account having any pretensions to accuracy could be kept of even that part of the importation of dutiable articles into Upper Canada, which followed the channel of the Saint Lawrence, and the undersigned is, therefore, unable to devise any means of procuring evidence either respecting the gross amount of such importations by the Saint Lawrence and the Ottawa, or the specific articles of which they were composed. It is to be lamented that no mode of enquiry that may be adopted, can lead to a correct and satisfactory result.

Upon the second question the undersigned wishes distinctly to remark, that, in his opinion the proportion of duties to be awarded Upper Canada, can by no method be established with a clearer approximation to correctness than by assuming the comparative population of the Provinces as the basis of calculation. While it is impracticable to produce the evidence alluded to in the first question of the honourable the Third Arbitrator, a reference to the population will furnish the least exceptionable rule of decision, and will approach the truth with as much accuracy as is compatible with existing circumstances. The intimate connexion between the two Provinces, arising from their position with respect to each other, their identity of interest, and their commercial intercourse which is daily increasing in extent and value, render it difficult and, perhaps, impossible to apportion the common revenue in exact measure to each ; a reasonable approximation to correctness ought therefore to prove satisfactory to both Provinces.

That there are circumstances affecting the consumption of particular descriptions of dutiable articles in the Province as alluded to in the third question proposed, the undersigned is not disposed to deny. Owing to the difference which exists in the habits of the people greater quantities of certain dutiable articles are no doubt consumed in one Province than in the other ; but it is not easy to shew the precise effect which this circumstance should have in varying or modifying an estimate of consumption founded on the basis of comparative population. The want of evidence already adverted to, deprives the Arbitrators of any positive and certain information relative to the exact degree of modification necessary in such an estimate, if indeed any be required.

Rum is an article which adds largely to the revenue, and it is often said that its consumption in Upper Canada, has not only decreased, but it is far below a fifth of the total annual importation. Were this assertion for a moment admitted to be fact, and if there should really be a difference on this head of revenue unfavorable to the claims of that Province, the greater consumption of dry goods by its inhabitants would go far towards restoring the proportion. The population of Upper Canada principally depends for clothing on the importation of British manufactures, while their own domestic manufactures supply the wants of the French Canadians.

The distillation of Whiskey in the western parts of Upper Canada, may have prevented the consumption of rum from keeping pace with the increased demand for articles subject to the ad valorem duty ; but nevertheless the importation of the latter article into the Province is still very considerable. It may be worthy of notice that whiskey was consumed to a great extent immediately after the war with the United States, and yet the returns of the joint Inspector, at Coteau du Lac, imperfect as they were, shewed the consumption of rum in the year 1816, to be one-fourth of the importation at Quebec, while of many other articles the proportion in favor of Upper Canada was still greater ; but the use of whiskey, whatever influence it may be allowed to have on an estimate of consumption, founded on the basis of comparative population, is not confined to Upper Canada, but extends also to the townships in the Lower Province.