not responsible for the embarrassment which the present state of things has given rise to, and which adds greatly to their responsibility while it increases, if possible, their anxiety to do right.

By simply performing what they believe to be their duty, if they do anything (while impartially exercising their best judgment) that may be looked upon as prejudicial to the interests of Quebec in the voluntary absence of counsel for that Province, the just responsibility cannot be charged upon them.

If in proceeding they act illegally, their award will not be binding and can do no injury. If it should be binding the loss of the judgment and assistance of an arbitrator for the Province of Quebec, however much the remaining arbitrators may regret it, and especially that they are deprived of the valuable aid of the arbitrator who has resigned, is not their fault. The withdrawal was his act and it has been deliberately adopted by his government, who have taken legal steps in one of their own Courts by their Attorney-General, to stop further proceedings. They have thus placed the arbitrators in the invidious position of either retracting their refusal to grant indefinite delay to the Province of Quebec, or of being placed in conflict with one of the highest tribunals of that Province.

As a public functionary in the matter, as well as in my private capacity, I desire to evince in every proper way my profound respect for the court whose process has been served on the arbitrators But it appears to me they cannot without a virtual abdication of their functions as arbitrators accept as a justification for a departure from their previously declared opinion, the preliminary order of prohibition (which I venture to think will not be finally confirmed) of a tribunal of that Province whose arbitrator's course has unnecessarily brought about this complication. I am of opinion that the arbitrators will best discharge the trust reposed in them by proceeding with the reference, and making, without unnecessary delay, an award which shall divide and adjust the debts, credits, liabilities, assets and properties of Upper and Lower Canada.

As already pointed out, if they have under the circumstances no power to make an award, the attempt to make one will create no prejudice to either party.

If they have the power, the duty arising under the Statute from an acceptance of their appointment, imperatively requires them, not by any act of theirs to suffer the time occupied and the cost occasioned by the proceedings so far taken to be utterly wasted, or to unnecessarily postpone the rendering of a final award.

The government of the Province of Quebec and the arbitrator appointed by them have had due notice that the present meeting would be held for the purpose of proceeding with business, and that it would be competent for the arbitrators, therefore, so to proceed in accordance with well established rules.

In order, however, to remove any possibility of misapprehension or doubt, I think it better, under the peculiar circumstances, that notice should now be given to the Province of Quebec and to Judge Day, of the intention of the arbitrators to proceed in accordance with the opinions just expressed, and that the arbitrators should adjourn until Wednesday the 17th inst., giving notice to all parties to the reference, that on that day they will proceed, should the government of Quebec not think proper to be represented or to assign any new or sufficient reason for their absence.

Hon. J. H. Gray—My colleague the arbitrator for Ontario having expressed a desire to adjourn for a week or ten days in order to afford time for a notification to the government of Quebec that the arbitrators would certainly proceed in absence of arbitrator or counsel on their part, unless at the next meeting they are represented—I shall most certainly concur. I think we should exhaust every reasonable effort to induce co-operation in this matter; but in order to prevent the delay which is now granted being in any way attributed to a doubt as to the power or intention of the arbitrators to proceed, it is as well to explain with distinctness the views of the arbitrators on the authority or the power of the courts of any of the provinces to prohibit or restrain their proceedings. With the highest respect for the courts of Quebec, on any matter coming within their jurisdiction, it is plain this arbitration does not. It derives its authority from an Imperial act. The government and Province of Quebec, of which those courts form a constituent part, is simply a party to the arbitration. Another province whose courts and government are entirely independent of and beyond the jurisdiction of the courts of Quebec is the other party—while the Dominion government simply appoints the third arbitrator by the authority of the Imperial act, which constitutes the tribunal. How is it possible that a subordinate part of the two provinces—because the courts are only parts of the whole machine of government—can control the action of another province and government and the arbitrator appointed by a third government, in a matter of submission to which the province, whose courts assume the authority, only appoints one out of three co-equal arbitrators? How can the courts of Quebec restrain the Province of Ontario or the arbitrator appointed by the government of that province, or the arbitrator appointed by the Dominion government, in a matter in which the whole proceedings may be carried on outside of the province or the territoral jurisdiction to which their process can possibly run? If so, the courts of the other provinces must have equal jurisdiction; and how absurd would it then be for the courts of Ontario to come forward and punish the arbitrators for not proceeding—for not discharging the duties they had undertaken—punished by Quebec for going on—punished by Ontario for not going on! Can any construction of the language of the Imperial statute sanction such a conflict of jurisdiction? But even if the proceedings were held within the limits of the territorial jurisdiction of the courts of one of the provinces, the subject-matter itself and the parties proceeding therein may be and are, as regards that subject-matter, entirely exempt from that jurisdiction. Apart from the common-sense view of such a question, which must strike every man, the courts of law in England have left no doubt upon the point. The highest authorities, both in chancery and common law, have decided that even where proceedings in arbitration were carried on within the locality over which the courts had jurisdiction, and in which their process had full force,