

#### IV.

On the pecuniary part of the question no difficulty ever arose among the Commissioners. They got what they required from whichever Province any of them asked it, and if any undue expenditure, or which any Commissioner thought to be undue or excessive, was thus being incurred, of which each Province had to bear half, *it was the duty* of the dissenting Commissioner to object *then* and take the sense of his colleagues upon it, and if over-ruled—if he thought it of sufficient importance—appeal, as was done by Mr. Bouchette on the territorial question. When however, the service not only went on, but the Commission, after completing its duties, was dissolved without such objection having ever been raised before the Commissioners, the expenditure had become absolute and no longer subject to discussion. Errors of account could be corrected but items of expenditure could not be changed. The recent experts or Commissioners could have no power, and the Government could give them no power to annul any part of the expenditure on the boundary survey long since closed by the only tribunal, the Imperial Commission, competent to deal with it, save in so far as there was an appeal from a majority decision, had any question of undue expenditure arisen before that tribunal.

4th. Another question to be considered from a legal point of view is the *conditional* balance reported by Mr. Dawson as agreed to by himself and Mr. Harding, the particulars of which are stated. I am of opinion that it could not possibly be within the powers of the Commissioners to make *the concession valid and the condition null*.

But I think the legal consequence would go farther than this, and that New Brunswick, having rejected that balance and appealed to the books and accounts, is bound by the true balance fairly resulting therefrom.

Mr. Botsford has given no evidence except on one point. He has proved that he never objected to any expenditure while the survey was in progress. His present "*impressions*" are not evidence and are absolutely valueless.

With regard to the entire majority report of the late Commission, it is hardly necessary to say that the objections to it, which I need not repeat, are well founded. The Commissioners, Messrs. King and Heard, having gone so manifestly beyond their powers in dealing with an expenditure resting upon a higher authority than their own, and duly audited and entered upon the books of the Government, it is hardly necessary for me to add that their *mode* of doing it, without any figures in support of conclusions so different from what any accountant with the same data would arrive at, is not such as could be accepted by any tribunal of justice by which the details of a disputed account had been submitted to experts for revision.

I think then that it may be taken as established that the Dominion Government was fully justified at the time—and *more than justified by the investigation that has now taken place*—in passing the Order in Council of 30th August, 1877. The accounts were all before the Government: the conditional remission of a part of the debt, by consent, under the admitted fact that there was no power to revise the expenditure of the Imperial Commissioners, was there: The New Brunswick account was there in every detail, to which not an item has been added before the Commissioners: The whole had been twice fully audited before confederation, and once specially audited by Mr. Langton since, who, though averse to the transfer