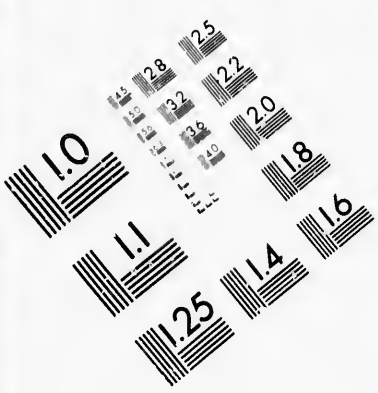

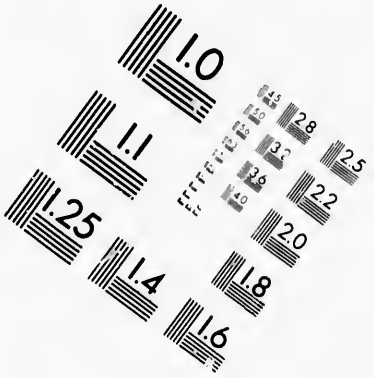

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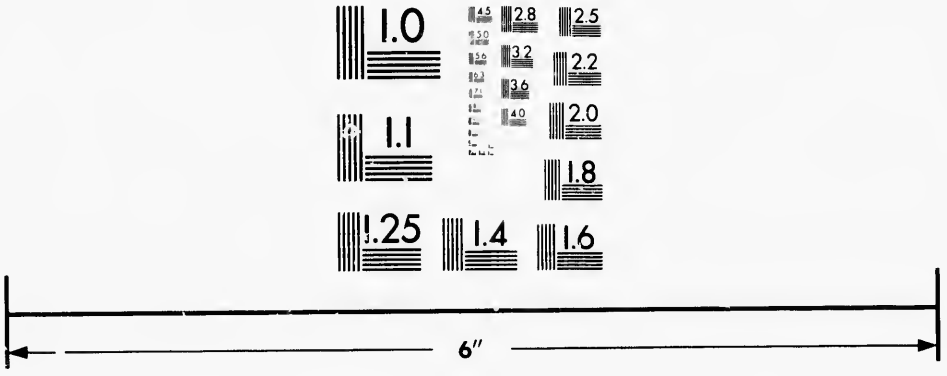

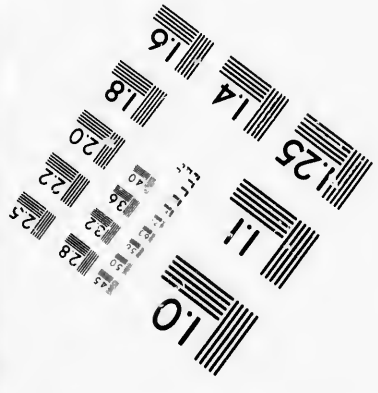

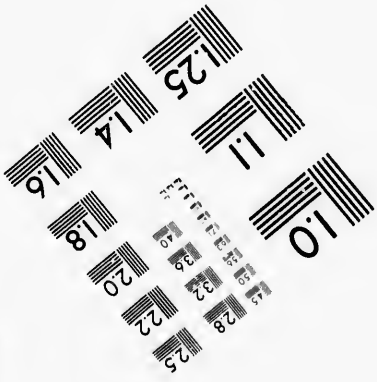

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ARGUMENTS

OF

HON. E. B. WOOD,

BEFORE THE ARBITRATORS, UNDER THE BRITISH NORTH AMERICA ACT OF 1867,

WITH A COPY OF THE

AWARD OF THE ARBITRATORS.

Toronto:
HUNTER, ROSE & CO., PRINTERS, 86 & 88 KING STREET WEST.
1870.

MEMBERS ELECTED

			Majority	Union.	Faction.
Algoma		J B Robinson	81	1	0
Argenteuil		J. J. C. Abbott	—	1	0
Annapolis		W. H. Ray	—	1	0
Addington		S Shabby	160	1	0
Brome		E. Carter	—	1	0
Brockville		N Bardl	11	0	1
Bellechasse		T. Fournier	—	0	1
Beauharnois		M. Robillard	89	1	0
Bonaventure		J Robitaille	—	1	0
Bagot		P. S Gendron	—	1	0
Bruce, North		Mr Gillies	18	0	1
Brant (S R)		W Patterson	277	0	1
Brant (N R)		G Fleming	310	0	1
Bearce		C H Dyer	1127	0	1
Bothwell		D Mills	597	0	1
Carleton		J Rochester	110	1	0
Champlain		J. J. Ross	176	1	0
Chambly		B Benoit	190	1	0
Colchester		— Pearson	—	1	0
Cape Breton		T. McDonald	—	1	0
"		N. L. McKay	—	1	0
Chateauguay		M. Tremblay	—	1	0
Cumberland		Dr. Tupper	1270	1	0
Cardwell		J H Cameron	120	1	0
Charlotte, N. B		T. McAdam	238	1	0
Dorchester		H. L. Langevin	328	1	0
Dundas		J Gibson	25	0	1
Durham [E R]		L Ross	57	0	1
Essex		J. O'Connor	850	1	0
Elgin (E R)		W Harvey	160	0	1
Elgin (W R)		G Casey	116	0	1
Grenville (S R)		Dr. Bronso	85	0	1
Grey (E R)		Mr. Flesher	525	1	0
Grey (S. R)		Dr. Landerkin	173	0	1
Grey (N. R)		G. Snider	149	0	1
Gloucester		T W Anglin	1152	1	0
Glengarry		D A McDonald	1096	0	1
Hastings (N. R)		Mr. Bowell	209	1	0
Hastings (W R)		Jas. Prown	454	1	0
Hastings (E. R.)		J. White	44	1	0
Hamilton	— Chisholm		101	1	0
	— Wittan		98	1	0
Halifax	— Almon		461	1	0
"	— Tobin		464	1	0
Huron (N R)		Thos Farrow	194	1	0
Huron (C R)		H Horton	430	0	1
Huron (S R)		M Cameron	126	0	1
Halton		J White	156	0	1
Inverness		Mr McDonald	—	1	0
Jacques Cartier		M Lallamme	—	0	1
Kingston		Sir J. Macdonald	131	1	0
Kent		R. Stephenson	141	1	0
King's, N. B.		— Domville	553	1	0
King's, N S		T. Chipman	603	1	0
Kamouraski		C. A. P. Pelletier	—	0	1
Kent, N. B		A Renand	—	1	0
Lincoln		T. R. Merritt	571	1	0
London		John Carling	304	1	0
Levis		J. B. Blanchet	87	0	1
Leeds & Grenville (N R)		F. Jones	375	1	0
Lanark, South		J. Haggart	862	1	0
Lennox		R. J. Cartwright	660	1	0
L'Assomption		L Archambeault	—	1	0
Lanark, North		D. Galbraith	150	0	1
L'Islet		M. Casgran	—	0	1
Lunenburg		Mr Church	89	1	0
Leeds (S R)		— Richards	6	1	0
La Prairie		A Pensoneault	61	1	0
Lambton		A Mackenzie	634	0	1
Montmorency		J. Langlois	400	1	0
Missisquoi		G. B Baker	—	1	0
Montcalm		P. Dugas	—	1	0
Montmagny		H. T. Taschereau	—	0	1
Maskinonge		A. Boyer	247	0	1
Megantic		M. Richard	—	0	1
Muskoka		A P Cockburn	177	0	1
Monck		J Edgar	42	0	1
Montreal, West		L A Jette	1229	0	1
Montreal, East		Hon J Young	820	0	1
Middlesex [W R]		J W Ross	56	0	1
Middlesex [E R]		D Glass	53	1	0
Niagara		A. Morrison	2	1	0
Nicolet		J. Gandet	—	1	0
Northumberland (E R)		J Keeler	98	1	0
Norfolk [S R]		W Wallace	117	1	0
Norfolk (N. R)		J Charlton	50	0	1
Ontario (S R)		T. N. Gibbs	100	1	0
Ontario (N R)		W H Gibbs	175	1	0
Prince Edward		W Ross	98	0	1
Pontiac		McKay Wright	283	1	0
Peterboro' (E. R.)		P. M. Grover	—	1	0
Peterboro' (W R)		W Cluxton	—	1	0
Pictou		J. McDonald	200	1	0
"		— Donell	200	1	0
Portneuf		Dr. De St. George	—	0	1
Peel		J. Smith	10	0	1
Perth (S R)		— Trow	300	0	1
Perth (N R)		T M Daly	65	1	0
Quebec Centre		J. Cauchon	198	1	0
Quebec West		J. McGreevey	341	1	0
Quebec County		S. J. Chauveau	1200	1	0
Queen's, N. S.		Jas. F. Forbes	—	1	0
Queen's, N. B		John Ferris	—	1	0
Richelieu		M. Matthieu	—	1	0
Russell		Dr. Grant	258	1	0
Restigouche		T. Moffat	419	1	0
Rimouski		Dr Fiset	300	0	1
Renfrew (N R)		J Findlay	102	0	1
Rouville		M Mercier	5	1	0
Renfrew [S R]		J O'Rielly	232	1	0
Richmond & Wolfe		W H Webb	—	1	0
St. John's Co., N. B.		L. Burpee	—	1	0
"		J Palmer	—	1	0
St. John City		S. L. Tilley	541	1	0
Simcoe (N R)		H. H Cook	89	0	1
Soulanges		J. C. Lanflier	218	1	0
Stormont		J Archibald	35	0	1
Shefford		Mr Huntington	402	0	1
St Hyacinth		L Delorme	197	0	1
Terrebone		L. P R Masson	—	1	0
Toronto, East		J beatty	97	1	0
Toronto, West		John Crawford	469	1	0
Toronto, Centr		B Wilkes	28	0	1
Victoria [W R]		J staples	85	1	0
Welland		P. C. Street	529	1	0
Wellington (N. R)		S. Higginbotham	60	0	1
Wellington (C. R.)		J. Ross	46	0	1
Wentworth (N R)		T Bain	111	0	1
Wentworth (S R)		J Rymal	208	0	1
York (N. R)		A. G. P Dodge	283	1	0
Yamaska		M Dagury	411	1	0
York [W R]		D Blain	84	0	1
Antigonish, N. S		Hugh McDonald	acc.	1	0
Bruce [S R]		E Blake	"	0	1
Carleton Co., N B		C. Connell	"	1	0
Compton		J. H. Pope	"	1	0
Chicoutimi		D. E. Price	"	1	0
Cornwall		De Bergin	"	1	0
Digby, N. S		A. W. Savory	"	1	0
Durham, West		E Blake	"	0	1
Frontenac		G. A. Kirkpatrick,	"	1	0
Guysborough, N. S		Stewart Campbell	"	1	0
Gaspe		P Fortin	"	1	0
Huntingdon		D Thompson	"	0	1
Huntingdon		Julius Scriver	"	1	0
Hants		J. Howe	"	1	0
Joliette		G. Baby	"	1	0
Laval		Dr. Bellerose	"	1	0
Lotbiniere		H. G. Joly	"	0	1
Montreal (W R)		M P Ryan	"	1	0
Middlesex (N R)		T Scatcherd	"	0	1
Northumberland, N. B		Peter Mitchell	"	1	0
Northumberland (W. R.)		J. Cockburn	"	1	0
New Westminster		H Nelson	"	1	0
Ottawa County		Alonzo Wright	"	1	0
Ottawa City		J. B. Currier	"	1	0
"		J. B. Lewis	"	1	0
Oxford (N R)		T Oliver	"	0	1
Oxford (S R)		— Bodwell	"	0	1
Prescott		A. Hagar	"	1	0
Quebec, East		M. Tourangeau	"	1	0
Richmond, N. S		Isaac Le Vesconte	"	1	0
Sherbrooke		E. T. Brooks	"	1	0
Stanstead		C. C. Colby	"	1	0
St Maurice		Dr Lacerte	"	1	0
Simcoe (S. R)		W. C Little	"	1	0
Shelburne, N. S		Thos. Coffin	"	1	0
Three Rivers		W. McDougall	"	1	0
Temiscouata		C. F. A. Hertrand	"	1	0
Two Mountains		Mr Prevost	"	1	0
Victoria, N. S		Wm. Ross	"	1	0
Westmoreland (N. B.)		A. J Smith	"	1	0
Waterloo		J. E. Bowman	"	0	1
Waterloo, South		Jas Young	"	0	1
Wellington (S R)		D Stirton	"	0	1
York, N. B		O. Pickard	"	1	0
York (E R)		J Metcalfe	"	0	1
Yarmouth, N. S		Frank Killam	"	1	0
Total Returns			118	59	

1870
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PROCEEDINGS

OF

ARBITRATORS.

(Under the British North America Act, 1867.)

The Arbitrators met on the 15th of February, 1870, pursuant to adjournment. It being the first day of the meeting of Parliament, and the Hon. J. H. Cameron and the Treasurer of Ontario having been detained by a train getting off the track, between Toronto and Ottawa, when they arrived at Ottawa they found that the Arbitrators had met, the Hon. Mr. Chauveau, Messrs. Casault, Ritchie and Drolet, having appeared on behalf of Quebec, and no one appearing on behalf of Ontario, for the reasons already stated, the Arbitrators adjourned till Thursday, the 17th of February, 1870, at noon.

On Thursday, the 17th February, the Arbitrators met, pursuant to adjournment, in the Rooms of the Civil Service Board. Present on behalf of Ontario, Hon. Mr. Wood and the Hon. J. Hillyard Cameron; and on behalf of Quebec, the Hon. Mr. Chauveau, Messrs. Casault, Ritchie and Drolet, and the Hon. Mr. Robertson, Treasurer of Quebec.

It appears that the cases of the two Provinces had been respectively interchanged, and also sent to the Arbitrators, as required by the order of the 27th October last; but that no statement had been furnished of any settlement by the Provinces with the Dominion Government as to the definite debt as required by that order.

[Counsel then addressed the Arbitrators as to the preliminary objection raised by the Counsel for Quebec, as to whether or not the Arbitrators had jurisdiction over the debts and assets mentioned in the 4th Schedule of the British North America Act.]

The Arbitrators reserved judgment until the next day.

Adjourned until next day at 11 o'clock, a. m.

On Friday, the 18th February, 1870, the Arbitrators met.

Present, the same persons as at the preceding meeting.

The Arbitrators delivered their judgment on the point argued the day previous, and made the following order:

"The Arbitrators having heard Counsel upon the objection raised on behalf of Que-"bec, to their jurisdiction over the subject matter of the assets enumerated in Schedule 4, "of the British North America Act, 1867, and duly considered the question, are of opinion, "and do adjudge that the assets enumerated make part of the property and assets, the di-"vision and adjustment whereof have been referred to them under the provisions of Sec-"tion 142, of the said Act, and that they have by virtue of the said Act, authority to di-"vide and adjust the same."

The Hon. J. H. Cameron, on behalf of Ontario, then proposed to go into the argument upon the proposition as to the mode of division pointed out in the case stated by Quebec, namely to treat the union of the Provinces in 1841 as a partnership—charging Ontario with the alleged debt Upper Canada had at the Union,—and crediting Quebec

with its alleged cash on hand at the Union and during the whole period of the Union, being upwards of 26 years, treating all things as equal; and then at the end of the quasi partnership, first charging Ontario with so much of the excess of debt over $62,500,000, as was the alleged debt of Upper Canada at the Union, added to the alleged cash of Lower Canada at that time; and then after deducting this sum from the excess of the debt, dividing the balance equally between the two Provinces. (The proposition of Quebec here referred to, is stated at full length in the argument of the Hon. Mr. Wood, on the discussion of the modes of division proposed by Ontario and Quebec.) Messrs. Casault & Ritchie, on behalf of Quebec, objected to an argument and decision of this point to be taken by itself alone, contending that such a course would be exceptional.

After hearing Counsel on both sides as to whether this point should be argued and a decision thereon had at this stage of the Arbitration, in order to the expediting of the business before the Arbitrators, the Arbitrators reserved judgment until their next meeting.

The Arbitrators then adjourned until Monday, the 20th, at 11 a. m.

MONDAY, 20th February, 1870.

Arbitrators met.

Present: All parties as before.

The Arbitrators declared their opinion that it was not desirable to interfere, with the ordinary mode of proceedings in such cases, and therefore, they would not at present hear the argument upon the point, separate and alone raised by Messrs. Cameron & Wood, and objected to by Quebec.

By agreement the Counsel then proceeded to the argument on the claim of Quebec to charge against Ontario the capital of the Indian annuities granted for the cession by the Indians of lands in Ontario.

Messrs. Casault & Ritchie were heard on the part of Quebec, and Messrs. Cameron & Wood on behalf of Ontario.

Messrs Casault & Ritchie's argument was as follows:—

"The British North America Act of 1867 reserves to the Parliament of Canada the "exclusive legislative authority in matters relating to Indians. This rendered necessary "the change in the statement of liabilities of the principal of the annuities payable to In- "dians as a compensation agreed upon both by deeds and treaties for the lands in Upper "Canada which they surrendered to Government. The annuities amount to $31,064, and "have since the surrender been a permanent charge on the Canadian budget. They are "capitalized at 5 per cent., forming $621,280, and are just as now stated the price or con- "sideration stipulated by the Indians for the surrender of large tracts of lands in Upper "Canada. Information as to the quantity of these lands remaining unsold, and the arrears "due on the 30th June, 1867, on those previously sold will require to be obtained, which "as yet has not been done. By Sec. 109 of the above Act all lands are made over "to the Province within which they are situated *subject, however, to any trust existing in re- "spect thereof, and to any interest other than that of the Province in the same.* These annuities "being the price unpaid of the lands themselves are a charge on them. The contract be- "tween the government and the Indians ought to be governed by the same rules as similar "contracts between individuals. The land being within the Province of Ontario, became "under said Sec. 109 the property of that Province, subject, however, to the interest of "the Indians in the same. This interest is the payment of the annuities stipulated as a "compensation for the lands ceded. It might also be called a trust, the administration "of which is left to the Dominion, the legal guardian of the Indians. Ontario receiving "the lands and the arrears due for those sold, is subject to all legal and equitable claims "which may exist on them. It should, therefore, be charged with the principal of the "annuities. It would be manifestly unjust to require Quebec to share in paying for these "lands which will be the effect of the capital being allowed to remain in the statement "of liabilities unless compensation is required from Ontario for the lands and arrears re- "presenting the capital of these annuities."

The argument of Mr. Wood, contra, was as follows:—

It would appear that primarily the entire territory now comprising Upper Canada and Lower Canada was tacitly, if not expressly, admitted by the British Government to belong to the various tribes of Indians who roamed over it, and regarded it as their hunting ground and rightful property; and their territorial rights seem to have been fully recognized by the proclamation of George III., 7th October, 1763, promulgated to the Indians by Sir William Johnson, 24th December, 1763. Extract: "*And whereas it is just "and reasonable, and essential to our interest, and the security of our Colonies, that the several "nations or tribes of Indians with whom we are connected, or who live under our protection, "should not be molested or disturbed in the possession of such parts of our dominions and terri-"tories, as not having been ceded to, or purchased by us, are reserved to them or any of them as "their hunting grounds.*"

Acting upon this principle all Upper Canada was, in fact, at different times and in varying quantities purchased from the Indians. Prior to 1829, payments were chiefly made in annual presents. Subsequent to that time payments were made in annuities, partly in presents and partly in cash.

[Counsel here went into full particulars relating to every purchase made from the Indians, exhibiting and presenting to the Arbitrators a carefully prepared map, showing the different surrenders, their date and the stipulated annuity, with a printed statement of all the particulars relating to the same, and a carefully prepared argument of the whole question raised by the Counsel for Quebec, which being voluminous is omitted.]

It is enough for the present purpose to state that at the Union in 1841, these annuities amounted £6,666—$26,664, and as the Imperial Government by the Union Act of 1840, supplemented by 9 Vic., cap 111, passed in 1847, surrendered all the territorial revenues of Canada to the Province, it required the Province to pay these Indian annuities. For some years after the Union they were paid from the proceeds of the Crown domain, and were considered a first charge on such proceeds, but never upon the lands themselves. It was intended by the Imperial Government that these annuities should have been made a reserved charge on the whole Consolidated Revenue Fund of the Province in the Union Act of 1840, but they were inadvertently omitted. The Imperial government was not satisfied with these annuities remaining in the position in which they were, as appears from a despatch from the Secretary of State for the Colonies to Lord Metcalfe, in 1841. In consequence whereof was passed 9 Vic., cap. 114, by which these annuities were specially included in the Civil List, Schedule B; thereby removing all charge in respect of them (if any existed) from the territorial revenues of the Province, and making them a permanent charge on the Consolidated Revenue Fund of the whole Province from all sources.

Such is a short statement of the facts relating to what are called the "*Old Indian Annuities.*"

To the argument of Counsel for Quebec, which is purely technical, it is answered:

1. According to English Equity Law there is no lien existing on the lands ceded by the Indians, as is demonstrated by numerous decisions, and amongst others the following: *Boulton* vs. *Gillespie. In Appeal U. C., Grant's Reports*, 222. In this case several parties bought a tract of land, with a view to laying off a portion thereof into building lots, and selling the same to purchasers; for greater facility in doing so, the legal estate was vested in one of them as trustee, however, for the several parties interested. Subsequently one of the owners sold out his share, receiving in payment notes of hand made by his vendee, and endorsed by two other persons. It was held by the Court in Appeal that the vendor did not, under such circumstances, retain any lien for the purchase money remaining unpaid. The Court in giving judgment say: "It is the vendor's 'natural equity' as it has "been termed, to have a lien on his estate until he has been paid for it; but the vendee "may show that under the circumstances of the purchase it is not equitable that such a "lien should be retained: and if he can show that the retention of such lien would defeat "or even materially interfere with the known object of the purchase, so as to clog it with "difficulties, which it is reasonable to conclude that the parties could not have intended "that the purchase should be encumbered with; then the vendor's *prima facie* equity is "rebutted, and a state of things is established under which the retention of the lien would "be the reverse of equitable. * * * But inasmuch as the right to a lien does no

"grow out of contract or intention, but out of the natural equity of the vendor, it seems "to follow that whenever it can be shewn to be more equitable that the purchaser should "have his land free from the lien, than that the vendor should retain it, no lien for unpaid "purchase money can exist, for the equity against it outweighs the equity in favour of it" In *Gilmour* v. *Brown*, 1 Mason, p. 218, the doctrine of vendor's lien for unpaid purchase money is discussed. In this case a tract of land was purchased with the view of its subdivision into lots and sale to settlers, and negotiable notes were taken for the unpaid purchase money. In giving judgment Mr. Justice Story said: "In applying the doctrine to "the facts of the present case, I confess I have no difficulty in pronouncing against the "existence of a lien for the unpaid part of the purchase money. The property was a "large mass of unsettled and uncultivated lands, to which the Indian title was not yet "extinguished. It was, in the necessary contemplation of all parties, bought on specula- "tion, to be sold out to sub-purchasers, and ultimately to settlers. The great objects of "the speculation would be materially impaired and embarrassed by any latent encum- "brance, the nature and extent of which it might not always be easy to ascertain, and "which might, by a subdivision of the property, be apportioned upon an almost infinite "number of purchasers. It is not supposable that so obvious a consideration should not "have been within the view of parties, and viewing it, it is difficult to suppose that they "could mean to create such an encumbrance; a distinct and independent security was ta- "ken by negotiable notes, payable at a future day."

It might be inferred from the language of this eminent Judge, that he rested the decision of the case on the presumed intention of the parties; but it is susceptible of the construction that "the equity against the retention of the lien outweighs the equity in favor of it," and therefore "its retention would be inequitable."

In *Winter* vs. *Lord Anson*, 3 Russ. 488, *Lyndhurst* says: "In general where a bill, note "or bond is given for the whole or part of the purchase money, the vendor does not lose "his lien for so much of the money as remains unpaid. The circumstance that in these cases the money is secured to be paid at a future day, does not affect the lien."

In *Parrott* vs. *Sweetland*, 4 M. & K. 655, a distinction was recognized between cases where a *security* for the price, and a *substitution* for the price of the land was taken by the vendor; and in the latter case, it was held that the vendor had no lien.

Wilson vs. *Daniels*, 9 U. C., Grant's Reports, 493, Esten, V. C., said: "It is quite clear "that the law confers the right which is asserted in the present case, (vendor's lien) "independently of the agreement of the parties, and that in order to prevent its operation, "it must either expressly or by implication be extinguished. An intention of that nature "may be, and often is, inferred from the circumstances, indeed almost always, when it is "deemed to have become extinct, for it is seldom the subject of express stipulation.

In *Degear* vs. *Smith*, 11 U. C. Grant's Reports, 570, the plaintiff sold an estate to the defendant for $2,000. Of the purchase money, $200 was paid in hand, a mortgage taken on other property for $1,000; and for the remaining $800, four promissory notes were to be taken payable at intervals of a year. The plaintiff's bill stated them as "four promis- "sory notes of the defendant and such other person or persons of such standing as to ren- "der the notes, without the indorsement of the plaintiff capable of being sold and disposed "of by the plaintiff without loss, to persons living in the neighborhood of the plaintiff." The plaintiff's bill was dismissed with costs. *Spragge*, V. C., in giving judgment, said: "I am of opinion that under the circumstances, the plaintiff retained no lien on the pre- "mises sold for any portion of the purchase money," and he cited in support of his judgment, *Nairn* vs. *Prowes*, 6 *Ves.* 752. *Bond* vs. *Kent*, 2 *Ves.* 28. *Hughes* vs. *Stearns*, 1 *S. & L.* 132. *Mackwrath* vs. *Symmons*, 14 *Ves.* 341, 348, 349.

Now, suppose that the alleged purchase of lands from the Indians stood upon the same footing as if the transactions had been between private individuals; which is placing the view taken by the Counsel for Quebec in the strongest possible light in their favor. Under the facts of these Indian purchases, about which there is no dispute, in the light of well settled equity law, as demonstrated in the cases cited, no vendor's lien could exist in respect of the lands. For the lands were ceded in large blocks covering millions of acres, and the express design and object in acquiring the Indian claim to them was to survey them into small lots and to sell the lots to actual settlers, and to grant patents to the se

tlers. In the language of Judge Story. "They were in the necessary contemplation of "all parties bought to be sold out to sub purchasers (purchasers from the Crown) and ulti- "mately to actual settlers. The great object of the purchases in question, would not only "be materially impaired and embarrassed, but utterly defeated, if the vendor's lien were to "attach to the lands apportioned out upon an almost infinite number of purchasers." In this case the doctrine would apply, if applicable in any conceivable event, "*that it is more "equitable that the purchaser should have his land free from the lien, than that the vendor should "retain it, for the equity against it outweighs the equity in favor of it.*"

Therefore, applying to the case in hand, the strictest and sharpest construction of equity law, no lien for unpaid purchase money can exist.

When one comes to view the question in the light of surrounding facts and the history and legislation of the country, even if on strictly technical grounds as between private individuals, such an equity as is contended for did exist, all pretence for any such contention is entirely removed. A contrary conclusion would make every farm in Upper Canada, however old and long settled, and however long the patent may have been held from the Crown, subject to and encumbered with the original purchase money agreed to be paid by the Crown to the Indians for the extinguishment of the Indian title; a result which shows its utter absurdity.

2. The "Old Indian Annuities," as has been before remarked, are $26,664, and capitalized at 5 per cent. amount to $533,280. If it be argued that, though true it may be, this capital is not a charge on the lands, yet still it is on the proceeds of the lands, (it is difficult to conceive how it can be the latter without being the former,) the answer is that if it be a charge at all, it must be a first charge on the proceeds of the lands, and if so, that between 1841 and 1867 more than $5,000,000 net have been realized from the territorial revenue in Upper Canada alone, and paid over into the common exchequer of the late Province of Canada, and applied to the general purposes of the whole Province. Indeed the receipts of any one year since 1852 would have been sufficient to have enabled the late Province, if it had been its duty so to do, to have set apart and invested an amount equal to the capital of the annuities, $533,280, at 5 per cent. to meet these annual recurring payments for all time. But the late Province did not do this, but used the capital for the general purposes of the Province, and thereby relieved that particular source of revenue from the charge of these annuities altogether—making the whole Province itself the direct debtor for the same. If this were not so, when the lands and revenue were exhausted, as is the actual fact in respect of nearly all or the greater portion of the lands for the cession of which these annuities were created, there would be no source whence they could be paid.

3. In 1847, the late Province of Canada, in order to discharge the territorial revenue in Upper Canada, from any charge or lien in respect of these annuities, and in consideration of such discharge, and at the request of the British authorities and in deference to the Imperial wish, placed the payment of these annuities beyond all casualities. As has been stated in *Parrott* vs. *Sweetland*, the court held that "*where a substitution for the price of land was taken by the vendor, no lien for that price existed.*"

In the case of these annuities, the parties directly concerned were the Imperial Government on the one hand, which was the guardian of the Indians, and the Canadian Government on the other hand, which was bound to make the payments. By 9 Vic., C., 144, a definite and final contract was made between these parties, whereby these annuities were made a part of the Civil List, and included in Schedule B. to that Act. Sec. 6 says: "The "said several sums mentioned in the said Schedules, (Indian annuities £6,666 is one of the "sums) shall be accepted and taken by Her Majesty by way of Civil List, instead of all "territorial and other revenues, now (then) at the disposal of the Crown arising in this "Province, (Province of Canada.)" Here is a clear *substitution for the price of land*, an annual charge on the whole Consolidated Revenue Fund, if these annuities are considered to be the price of lands or unpaid purchase money, by the express contract of the parties; for this Act as the recital shows, was passed at the instance of Her Majesty, and was reserved for Her Majesty's assent, and was assented to by Her Majesty. In its very terms this annual charge on the Consolidated Revenue Fund was *substituted* for all payments which were to be made to the Indians out of territorial and other revenues. Therefore, all connection

between the lands or the revenues derivable from the lands was entirely cut off, and forever extinguished, if any such connections did theretofore exist.

4. Aside from the foregoing considerations, it is impossible not to bear in mind the way in which Upper Canada and Lower Canada, after being reunited in 1841, during the long period of twenty-six years, regarded and treated the Crown domanin, and these annuities. They did not look upon the annuities as being charges on the lands. So far from it, they never regarded them as being specific charges on the net revenues from the lands. On the contrary, they treated them as general charges on the whole of Consolidated Revenue Fund; a permanent debt of the United Province, from which the Province profitted largely, very largely, in the territorial revenue derived from the lands.

If these annuities are a charge upon the lands handed over to Ontario, the only power capable of enforcing the charge is the Dominion of Canada, not the Arbitrators. The Government of Canada is charged with the execution of all trusts belonging to the late Province. All obligations of the late Province are thrown upon the Dominion of Canada. The Dominion of Canada has declared that the payment of these annuities rests with it; and it has further declared, that it is not an obligation of Ontario, but of the late Province of Canada. In fact, the Arbitrators have really nothing to do with the question. But whether they have, or assume to have or not, makes little difference; for the pretentions of Quebec cannot be sustained by law, equity or facts. In whatever light it is viewed, but one conclusion can be arrived at.

"NEW INDIAN ANNUITES."

UPPER CANADA.

Under Robinson's treaty of 1850, there was paid down, in cash, $16,640 to the Lake Huron and Lake Superior Indians, and these Indians were also by the treaty to be paid annuities as follows:—

Lake Huron Indians	$2,400 00
Lake Superior Indians	2,000 00
Total	$4,400 00

The territory surrendered by them being all the residue of unceded lands belonging to the Indians, situate within the Province of Ontario, embracing the country lying to the east of the Georgian Bay, and on the north shore of Lakes Huron and Superior.

LOWER CANADA.

As a set off to the payment made to the Upper Canada Indians ($16,640) and the annuity of $4,400, but to which there was not a shadow of claim or right, there was by the Act 14 and 15 Vic., c. 106, granted to the Indians in Lower Canada, an annuity of $4,000, and from the public domain 230,000 acres, without price or payment, which at the moderate sum of one dollar per acre would be equal to a grant from the public exchequer of $230,000! and these lands were actually set apart for the Lower Canada Indians, as set forth in Schedule thereto annexed. But not content with this, it appears from the Public Accounts, that the annuity paid from the public exchequer to Lower Canada Indians has has been—

Under 14 and 15 Vic., c. 106	$4,000 00
By annual vote of Parliament	400 00
Total	$4,400 00

It is therefore difficult to conceive on what ground Quebec can urge before the Arbitrators any claim against Ontario, on account of Indian annuities "new" or "old." But it is not difficult to see, nay, it is impossible not to see, that Ontario has a just and proper claim against Quebec for its proper proportion of $230,000 given to Indians in Lower Canada by 14 and 15 Vic., c. 106, and for the $4,000 perpetual annuity granted by the same

Act, and for the $100 annual grant from 1858 to 1868, amounting without interest, to $1,000. The reason of this must be perfectly obvious. In the case of the money paid, and the annuity under the Robinson treaty, united Canada before Confederation received both money and annuity back, more than fifty times told, in the advantages of which Lower Canada participated equally with Upper Canada. Whereas in the case of the land given to the

Lower Canada Indians, equal to	$230,000 00
And the annuity by special vote for 10 years of $100	1,000 00
Perpetual annuity, 14 and 15 Vic., c. 106, capitalized in 1867, at 5 per cent	80,000 00
Interest on payments made under special vote, that is to say, on the $100 annuity for 10 years	1,320 00
Interest of $1,000 annuity to 1867, 10 years	13,400 00
Making a total of	$328,720 00,

in which Upper Canada in no way participated or derived any benefit or advantage whatsoever. Therefore, it must be repeated that it is impossible not to see that in the arbitration, Ontario must, on account of Indian annuities, be allowed as against Quebec, the sum stated, namely $328,720.

It may be argued that the giving of these lands to Lower Canada Indians was no advantage to Lower Canada; but it must be borne in mind that had not these lands been so given, they might have been sold, and Upper Canada would have shared in the proceeds of sale. The Indians of Lower Canada were, so to speak, "a local institution," and ought to have been provided for from local sources. They surrendered no land for the common benefit of the whole Province of Canada, as did the Indians of Upper Canada, to whom annuities were granted.

"But whatever view may be taken of the lands given to the Indians in Lower Canada, there can be no question as to the *annuities* given to the Lower Canada Indians. For these, no Lands were surrendered, and no obligation rested on Upper Canada to give them anything. It may be that Lower Canada was bound to provide for them; if so, it should have done it from its local sources. It having been made a charge on the general exchequer, Upper Canada should have credit for its proportion of the grants, which, without taking into consideration the lands, amounts to $98,720.

This closed the argument on Indian Annuities.

OTTAWA, 21st February, 1870.

On the meeting of the Arbitrators, it was arranged and agreed that argument should be heard and a decision had upon the principles or modes proposed for the apportionment of the excess of debt and division of assets between Ontario and Quebec, as a basis or guide for adjudication upon the matters submitted by the B. N. A. Act, 1867. when Mr. Wood said:—

Ontario has suggested three different principles or modes, upon one of which or upon parts of the three combined, the excess of debt and the assets should be divided between Ontario and Quebec:—

1. Origin of Local Debt.
2. Population.
3. Value of Capitalized Assets.

1. *Origin of Local Debt.*

In treating of the propositions for the division of the excess of debt and the assets, I shall assume certain amounts, for the purpose of presenting more clearly what I have to offer, and which, though not strictly correct, can in no way affect the principle of the mode of division. It is known that the total debt of the late Province will be at least $79,500,000, without the deductions provided for by The British North America Act, and

after such deductions, to $73,000,000. That will make the excess of debt over $62,500,000, at least $10,500,000. Now, on examination of the items which compose the total debt, it will be found that that portion of it created for Local purposes in Upper Canada and Lower Canada, amounts in round numbers to at least upwards of $17,000,000, of which, $10,000,000 was for Upper Canada purposes and $7,000,000 for Lower Canada purposes. The total debt is reduced from $79,500,000 to $73,000,000 as I have just said by deductions; and therefore, the excess of debt to be divided, is only $10,500,000, instead of $17,000,000, the amount of the debt created for Local purposes. If the total debt were not reduced, there would have been $17,000,000 instead of $10,500,000 excess of debt to be divided between Upper Canada and Lower Canada. In the latter case, it is manifest that the correct principle would have been to apportion to Lower Canada the debt created for her Local purposes, namely, $7,000,000, and to Upper Canada that created for her Local purposes, namely, $10,000,000. Can the soundness, justice and fairness of this principle be assailed? If it can, it certainly has not been so far attempted. I cannot conceive how any one can offer any rational objection to the principle of the division embraced in this proposition. If this be granted, the real excess of debt, be it $10,500,000 or any greater or less sum, must be divided rateably as follows:—

17,000,000 : 10,500,000 : : 10,000,000 : Ontario debt.
17,000,000 : 10,500,000 : : 7,000,000 : Quebec debt.

Of the debt created for local purposes, ($17,000,000), in round numbers $6,000,000 resulting from the Seigniorial legislation, left no asset behind it. If the whole $17,000,000 had left behind it $17,000,000 of assets, then Lower Canada would just simply take its assets, situate within its own Province, namely, $7,000,000, and Upper Canada would take its assets, situate within its own Province, namely, $10,000,000. But as I have said before, $6,000,000 of the $17,000,000 left no asset behind it—that is, the assets to be divided amount to only $11,000,000. It follows logically that the assets should be awarded on the same principle as the excess of debt; or to speak more accurately, it necessarily follows that the same principle actually divides the assets, giving to Lower Canada the assets left behind its local expenditure of $7,000,000, less its Seigniorial Legislation expenditure; and to Upper Canada the assets left behind its local expenditure of $10,000,000, less its compensation flowing from the Seigniorial Legislation. In other words, of the assets to be divided by the arbitrators, it gives to Lower Canada its local assets, and to Upper Canada its local assets. It is worthy of observation that so unassailable is this principle, that the principle of proportion applied to the division of the debt, is equally applicable to the division of the assets, and produces the same results. Of all the modes suggested, this is least open to objection. It is founded on truth and justice. It is not even open to criticism. It is able to be understood by the commonest intellect. It cannot be attacked by the partizans of either Province, and must recommend itself to the common sense of the whole country. The same cannot be said of any other mode which has been suggested or which I have been able to suggest to myself.

2. *Population.*

In dealing with large sums to be distributed among or to be borne by the people of one country who are homogeneous, of the same origin, and of the same general habits and characteristics, the principle of population has been uniformly adopted. For in such a country it is reasonable to suppose that members of one community in one portion of the country taken as a whole, contribute as much to the general expense of the whole as the members of any other portion of the commonwealth, and are therefore entitled to participate equally in any distribution made to the whole country, and should, for the same reason, be equally liable to bear any impositions imposed on the whole country. On this principle the Zollverein or Customs Union of the Germanic States was formed, and forty years experience has demonstrated the correctness of this principle. Under this Customs Union now, over 23,000,000 thalers are annually collected in one common Treasury, and distributed among fifteen independent States, whose population in the aggregate amounts to nearly forty millions, pro rata of their population. But we have a notable example where this principle was recognized and acted upon nearer home. According to the Quebec Resolutions, as sanctioned by the Legislatures of the several Provinces, the debts

which each Province might bring into the Union, which were to be the debt of the Dominion, and to form a charge on the joint revenues of all, were based on the population of each Province. The subsidy which each Province was to draw from the Common Exchequer for the support of its local government, was according to and based upon its population. An additional subsidy for a limited period of time was given to New Brunswick. But this was not a departure from the principle, but a most emphatic recognition of it, as will be seen by reference to the sixty-fifth of the Quebec Resolutions. True it is, additional subsidies were given in the way of special payments by the delegates in England, and which are now embraced in the British North America Act, which are not based strictly, though approximatively, on population. But these were never authorized or sanctioned by either the Legislatures of the Provinces or the people. They were declared by the whole country to be wrong, while the adjustment of the debts, and the subsidies on the principle of population, met with the universal approbation of the whole country; and one does not see how it could be otherwise, for its justness and fairness as a rule, applicable to a homogeneous people, cannot be denied. The principle of division, according to population, has the more force in the case under consideration, from the fact that this division of the excess of the debt of the late Province at the Union, and this division of the assets handed over to Upper Canada and Lower Canada, spring directly out of and are cognate to the Confederation of the British North American Colonies, the financial arrangement of the Union of which, was based expressly on population. It may perhaps be as well in order to silence for ever any argument as to the principle upon which "the adjustment of the debts, credits and liabilities" of the several Provinces was based in the great scheme of Confederation, to make a few quotations from the Quebec Resolutions, and from the Speeches of the Minister of Finance (Hon. Sir A. T. Galt), and the President of the Council (Hon. George Brown), in the Parliament of the late Province, while the Quebec Resolutions were under consideration.

Quebec Resolutions.

"64. In consideration of the transfer to the General Parliament of the powers of Taxation, "an annual grant in aid of each Province shall be made, equal to eighty cents per head of "the population, as established by the census of 1861, the population of Newfoundland being "estimated at 130,000. Such aid shall be in full settlement of all future demands upon "the General Government for local purposes, and shall be paid half-yearly in advance to "each Province:

"65. The position of New Brunswick being such as to entail large immediate charges upon her "local revenues, it is agreed that for the period of ten years, from the time when the Union "takes effect, an additional allowance of $63,000 per annum shall be made to that Province. "But that so long as the liability of that Province remains under $7,000,000, a deduction "equal to the interest on such deficiency shall be made from the $63,000."

Hon. A. T. Galt's Speech, Con. Debates, page 66.

"It must be evident that entering such a partnership as is proposed, some common "basis must be arrived at on which each Province must enter into the Confederation. "Taking all the engagements, present and future, of Nova Scotia and New Brunswick, it "was found that *relatively to their populations* they amounted to about $25 per head, and "this amount so applied to Canada would entitle us to enter the Union with a debt of "$62,500,000."

Hon. George Brown's Speech, Con. Debates, page 93.

"But as any grant given from the common chest for local purposes to one Province "must be extended to all on the basis of population, it follows that for every $1,000 "given, for example, to New Brunswick, we must give over $1,300 to Nova Scotia, $4,000 "to Lower Canada, and $6,000 to Upper Canada *

"But it is said that in addition to her eighty cents per head under this arrangement, New "Brunswick is to receive an extra grant from the federal chest of $63,000 annually for ten "years * * * * * * * * * *

"The House is aware that the Federal Government is to assume the debts of the several "Provinces; each Province being entitled to throw upon it a debt of $25 per head of its "population. Should the debt of any Province exceed $25 per head, it is to pay interest "on the excess to the Federal Treasury, but should it fall below $25 per head, it is to re- "ceive interest from the Federal Treasury on the difference between its actual debt and "the debt to which it is entitled."

In this same connection it may not be inappropriate to mention the fact that the representation in the popular branch of the legislature in all free countries is based more or less on the principle of population. To obtain a practicable recognition of this principle was one of the causes which led to Confederation: and in adjusting the representation in the House of Commons this principle is expressly incorporated in the Quebec Resolutions and in the British North America Act.

In further confirmation of the justice of this principle I refer to the fact, that it has on more than one occasion, in addition to what has already been stated, been recognized and acted upon by the Parliament of the late Province of Canada. A notable instance of it will be found in the apportionment of the Common School Grant to Upper and Lower Canada. That was always based on population according to the last census.

It is, therefore, difficult to conceive what reason or argument can be urged against adopting the principle of population, according to the census of 1861, in the apportionment of the excess of debt between Upper Canada and Lower Canada, and the division of the assets belonging to them under The British North America Act, conjointly—especially as it is so manifestly just in itself—has been so generally recognized under similar circumstances by other nations—and was expressly acted upon in forming the Union of the British North American Provinces—and is now in explicit terms embodied in the Constitutional Act.

If this principle be adopted, the apportionment of the debt and the division of the assets, become simple and easy, and free from all complications. It would stand thus:—As the population of Upper and Lower Canada is to that of each Province, so is the excess of debt to that portion of it which each Province should bear. The proportions would be stated as follows:—

Pop. of U. C. and L. C.			Assumed excess of debt.
Ontario,	2,507,657 :	1,396,091 : :	$10,500,000 :
Quebec,	2,507,657 :	1,111,566 : :	$10,500,000 :

And on precisely the same principle and for the same reasons would the assets be divided. These assets for the sake of illustration are assumed at $11,000,000. That is about their nominal amount. It would, therefore, follow that as the population of Upper and Lower Canada is to the population of each Province, so is the total assets to that portion to which each is entitled. The results of which would be to leave each Province in possession of the assets located in each Province. In the application of this principle to the division of assets, the final results may, and no doubt should be modified in consideration of the peculiar circumstances under which some of the assets had their origin, and in the further consideration of their intrinsic value.

3. *Capitalization of Assets.*

At a meeting of the Arbitrators held on the 2nd day of September, 1869, Judge Day stated that it was desirable that a valuation of the assets to be divided should take place, with a view, as it may reasonably be supposed, to their division according to value; and he proposed that the Treasurers of the respective Provinces should be the valuators. I objected to this, on the ground that the Treasurers would be most unlikely to agree on such valuation, and suggested that as the annual income was the best criterion by which to judge the value of any property, the Auditor should be ordered to make up, for the use of the Arbitrators, a statement shewing the annual revenue or proceeds derived from the assets for four and a-half years prior to Confederation, and the average annual per centage of the proceeds of each asset for that period. To this proposition the Treasurers of both Provinces assented. The arbitrators, thereupon, ordered the statement to

be made up by the Auditor, and it was accordingly done, and laid before the Arbitrators. It is submitted that the value of the assets thus ascertained, is the best that can be obtained, and shows correctly the value of the assets in the hands of the respective Provinces. It may be urged in respect of some of the assets, as for example, the Municipal Loan Fund U. C. and L. C., the Quebec Fire Loan and some other assets, a greater annual sum might be derived from them by using coercive measures, than was derived for the four and a-half years next preceding Confederation, or than was annually derived from them from the origin of the assets down to Confederation—the average for the entire latter period being about the same as the average for the former period of four and one-half years. But I think it fair to assume that the same causes, be they local, political or otherwise, which prevented a larger annual income to be derived from these assets than that shown on the average of four and a-half years prior to Confederation, and which since Confederation have rather diminished than increased this income, will continue to operate in such a way as to preclude any well founded expectation that these assets under Provincial management will produce any greater annual income than has heretofore been derived from them. Be this as it may, this mode of valuation, taking the period of four and a-half years, was deliberately assented to by the Treasurers of the respective Provinces, and as deliberately ordered by the Arbitrators; and, therefore, it is not competent, I think, now for either the Treasurers or the Arbitrators to question its correctness.

The following is the Statement of Assets of Ontario Capitalized at 6 per cent. on the average per centage of four and one-half years next preceding Confederation:

ONTARIO.

ASSETS.	Amount.	Average rate per cent. for 4½ years.	Value capitalised at 6 per cent.
U. C. Building Fund	$ 36,800 00	$ 06	$ 36,800 00
Law Society, U. C.	156,015 61	7.14	156,015 61
Consolidated Municipal Loan Fund, U. C.—			
Principal $4,651,895 98			
Interest 2,166,466 35			
	6,818,362 33	1.69	1,920,505 38
Agricultural Society, U. C. (This is put down as yielding nothing, yet it is a good asset for the amount, the Society being able to pay)	4,000 00		4,000 00
Revenue Inspectors, U. C.	2,426 41		
	7,017,604 35	$	2,117,320 99

QUEBEC.

ASSETS.	Amount.		Average rate per cent. for 4½ years.	Value capitalised at 6 per cent.	
Aylmer Court House Debenture Account, 6 per cent.....	2,000	00			
Aylmer Court House, Account Current.....	1,239	70			
Montreal Court House—					
Debenture Account.....$95,600 00					
Account Current..... 18,996 21					
	114,596	21	17,42	114,596	21
Kamouraska Court House Account Current, $201,91. There are $8,955, 8 per cent. Debentures, forming a first charge on the income. Ten per cent. would pay the interest on the Debentures, and leave ample to wipe out the Account Current, $201 91.....	201	91		201	91
Consolidated Municipal Loan Fund, L. C.—					
Principal $2,156,687 14					
Interest 787,742 83					
	2,939,429	97	2,88	1,410,926	38
Superior Education, L. C.—					
Legislative Grant .....$ 28,494 73					
Balance of deficit in Education Office... 290 10					
Income Fund 234,281 46					
	263,066	29	14,30	263,066	29
Quebec Fire Loan.....	264,254	65	1,98	87,204	03
Building and Jury Fund, L. C.....	116,475	51	11,58	116,475	51
Municipal Loan Fund, L. C.....	481,244	33	1,14	92,006	42
Registration Services, L. C.	2,524	38	3,910,60	2,524	38
Temiscouata Advance Account.....	3,000	00			
$	4,191,032	95	$	2.087,001	13

Upper Canada Assets	$7,017,604 35	valued at	$2,117,320 99	
Lower Canada Assets	4,191,032 95	valued at	2,087,001 13	
Total assets U. C. and L. C.,	$11,208,637 30	Total value	$4,204,322 12	

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. In short, the first proportion gives the debt to be borne by each Province, and the second proportion, the converse of the first, gives the assets which should belong to each Province. The two proportions may be stated as follows:

4,204,332 13 : 2,117,320 99 : : 10,500,000 : Ontario debt.
4,204,332 12 : 2,087,001 13 : : 10,500,000 : Quebec debt.
10,500,000 : Ontario debt : : 4,204,332 12 : Ontario assets.
10,500,000 : Quebec debt : : 4,204,332 12 : Quebec assets.

By this mode of dividing the excess of debt and the assets, predicated as it is on the

real value of the assets as fixed by the average annual per centage for four and a half years prior to Confederation, or for any longer period prior thereto—(for as has been observed if the annual average per centage for the whole of the existence of each asset be taken, instead of four and a half years, the result will be substantially the same)—all questions and disputes as to whether one asset is good or bad, or worth more or less than another, are avoided. One Province might say, "true we did expend so much on local "objects in our Province but the investment has proved unremunerative, and the asset is "unproductive, and, however valuable it may be as a public work to the whole Province, "as a source of revenue it is worth nothing, and it should in the division of the excess of "debt and the assets be put down at less than its nominal value or at nil." The principle of capitalizing the assets, that is, arriving at their real value in the way agreed upon by the Treasurers, and then capitalizing the average annual per centage, entirely removes all such objections: and as it substantially agrees with the other two modes of division, namely, "Origin of local debt," and "Population," it is equally fortified by every argument and consideration which has been adduced in support of a division on the principle of the "Origin of local debt," and the principle of "Population."

The consideration of the three modes suggested, substantially lead to the same conclusions. Neither is hostile to or opposed to the other. Each starting from independent first principles, produces substantially the same results as the other. The basis upon which each is predicated, cannot be shaken; for it is founded on truth and justice; and the argument and reasons which may be adduced in support of each, are equally applicable to all, and are unanswerable and conclusive.

Quebec objects to any and all of the three modes suggested, but has really offered no argument against any of them, unless an argument can be gleaned from the following quotation from the

"MEMORANDUM SUBMITTED ON BEHALF OF THE PROVINCE OF QUEBEC," BY ITS COUNSEL, MESSRS. CASAULT AND RITCHIE.

"*II Division of the Surplus Debt.*

"One of the most important tasks which the Arbitrators will have to perform is to "divide the surplus debt of the late Province of Canada between Ontario and Quebec. "The 112th section of the Confederation Act makes Ontario and Quebec conjointly liable "to Canada for the amount by which the debt of the Province of Canada exceeds at the "Union $62,500,000; these Provinces being chargeable with interest at 5 per cent. per "annum upon such surplus debt.

"This debt is to be apportioned by the Arbitrators between Ontario and Quebec.

"It has been suggested, that this division should be according to the population of "each, as it stood either when the Confederation took place, or at the last census in 1861, "or according to the origin of the debt.

"1. To take the population whether that of 1861 or that of 1867, as a guide, with- "out taking into account the respective financial positions of the parties when first united "in 1841, or enquiring in whose interest and in what proportion for each the subsequent "indebtedness was incurred, would be most unjust. It might free from its just propor- "tion of the debt the party which had profited the most by it, and charge it to the one "which had the least interest in its being incurred, or which derived from it the smallest "benefit. The injustice of this method will be made apparent by reference to a few facts "and figures taken from the public returns.

"*The debt of Upper Canada on the 10th February, 1841, was—*

"1. Debentures (as per Appendix No. 3, Vol. 6, 1847, K.K.K.,) cy.,	£1,398,855, 9 10	
"Equivalent to		$5,595,421 97
"2. Floating debt, being balance of expenditure over receipts, from 1821 "to 1841, (same Appendix)		330,357 57
"Making together		$5,925,779 54

"*Debt of Lower Canada, 10th February*, 1841—

"1. Debentures, (same Appendix)	£96,748 4 7	
"Less Montreal Harbour (the debt due by the same "not being charged against Ontario and Quebec in "the statement of affairs, on the ground that it is "only a contingent liability, and that the fund "always paid its interest)	£81,499 4 7	
	£15,249 0 0	
"Equal to	$ 60,996 00	
"But Lower Canada had at its credit, being excess "of receipts over expenditures, from 1791 to 1841) "appendix K.K.K., of 1847	$ 250,302 41	
"From which deducting above debt	60,996 00	
"It is found that instead of having any debt, it had "then at its command	$ 189,306 41	
"Striking out this amount is equivalent to its addition to the debt of "Upper Canada		$ 189,306 41
"Which would then stand at		$6,115,085 95
"Taking the population of each at that date, Upper Canada, (see "Census 1841, vol. 1, p. xvii.,) was 465,377, and Lower Canada, "making it as near as anterior and subsequent census permit, to wit: "census of 1831 and 1841, there being none for that Province in "1841,) was 663,258,—it establishes that, to be on an equal footing "according to population, Lower Canada should have entered the "Union with a debt of		$8,715,630 60

"Must not such disproportion be taken into account in the division of the debts, "credits, properties and assets; and the more since it existed at a time, when improve- "ments of all kinds were so much needed, and money expended in roads and other public "works, would, no doubt, have given to Lower as it did to Upper Canada, an impetus "which would have given an immense augmentation of population, resources and wealth?

"2. The other mode 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 specially 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 labour, and a consideration of circum- "stances which the arbitrators are not expected to undertake, but would also require a "minute examination of all 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 outlays 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; Gov- "ernment 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.

"3. The plainest, easiest, and it may be said the only just and practicable way of "settling the question, is to treat the case as one of ordinary partnership, and apply the "rules which govern the partition of partnership estates, rules which are the same in the "old Roman, and in the modern English and French law.

"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 $237,629, 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.

"According to this method of division, each Province ought first to assume the excess "of debt, a sum equal to its own debt, when it entered the Union in 1841, and the bal-"ance ought to be equally divided.

"Whatever may be urged against this mode, it is nevertheless the only just and "reliable one. It has this advantage over all other modes, that being the rule which "governs the relations of man with man in similar positions, it cannot give rise to grounds "of complaint nor to suspicions of favor, unfairness or injustice.

"Assuming it to be impossible, as above demonstrated, to ignore the relative financial "positions of the two Provinces in 1841, even if population were taken as a basis for the "division of the surplus debt, the following concise statements will prove that the adop-"tion of this arbitrary rule, namely, population, would free Quebec from a larger amount "of the debt.

"*Debt of Upper Canada in* 1841, (*as above stated*)—

"1. Debentures		$5,595,421 97
"2. Floating Debt		330,357 57
		$5,925,779 54

"*Debt of Lower Canada in* 1841—

"1. Credit	$250,302 41	
"Less Debentures	60,996 00	
	$189,306 41	189,306 41
"Striking it off, makes as already stated, debt of Upper Canada, "equivalent to		$6,115,085 95
"Surplus debt payable by Ontario and Quebec, on terms agreed upon "at the Montreal Conference		10,424,853 87
"Deduct for Upper Canada its debt in 1841		6,115,085 85
Balance		$4,309,767 92
"Divided equally, it gives each Province		$2,154,883 96
"According to population in	1861.	1867.
"It gives Ontario	$2,399,382 48	$2,522,650 89
"Quebec	1,910,385 44	1,797,117 03
	$4,309,767 92	$4,309,767 92

"So that by the mode suggested, Ontario would, on the surplus of debt, be charged "with $244,498 52, less than according to its population in 1861, and with $357,766 93 "less than its share by its population in 1867."

It is not proper to be discourteous in dealing with so grave a question as that under consideration, and yet I can scarcely forbear remarking that it is difficult to conceive how any sane man could seriously propose so absurd a proposition as is contained in the foregoing extract. Aside from the inaccuracy of the figures, it proposes to take the debts of Upper Canada and Lower Canada at the Union on the 10th February, 1841, or rather the debt of Upper Canada, and an alleged balance in the Exchequer of Lower Canada, added to the alleged debt of Upper Canada, and, while ignoring the principle of population, increasing it in the ratio by which the population in Lower Canada at that time exceeded the population in Upper Canada, and then, leaping over a period of twenty-six years, (from 10th February, 1841, to 1st July, 1867), to charge directly this alleged amount of debt ($8,715,630 60) to Upper Canada in the apportionment of the excess of debt over $62,500,000, and then, while all the time ignoring the principle of population, actually proposing to divide the balance of the excess of debt, after deducting the alleged debt of Upper Canada, according to population; even suggesting that the population should not be taken according to the census of 1861, on which Confederation was based, but the supposed population of 1867! and this is said to be based on the principle of a general partnership, as defined by the Roman Law and the Common Law of England! If it were not urged with an apparent seriousness, and if the interests involved were not so momentous, I would content myself with simply stating this most extraordinary proposition without saying one word in reply to it. Can it be possible that any one can seriously argue that the arbitrators are to simply take into consideration the debt of Upper Canada at the Union as proposed, without and reference to the assets of the two Provinces, and then pass over the intervening period of the Union, continue this debt for all that time, and at the separation of the Provinces by Confederation in 1867, revive this debt as against Upper Canada, although all or nearly all of it was long prior to Confederation, paid and discharged, and charge it to Ontario in the division of the excess of debt of the late Province of Canada over $62,500,000! and this is attempted to be justified on the principle of a general partnership! This would be, I must confess a most extraordinary partnership,—a partnership at the beginning and at the end, *but not during the existence of the partnership.* Why did not the Counsel propose to charge interest on the debt of Upper Canada with annual rests for twenty-six years? If it is proper to charge the principal it is equally proper to charge the interest. In this way instead of making it $6,000,000, they would make it $20,000,000! They have just as much right to make it the latter sum as the former. If any thing were needed to show the utter absurdity of the proposition it is this following out the proposition to its logical sequence. The figures in the foregoing quotation are entirely wrong. The source from which they profess to be derived, has the sanction of no authority, and is not only unreliable but positively erroneous. The only reliable source whence any figures relating to the debts and assets of Upper Canada and Lower Canada can be derived is the Public Accounts, as they appear in the annual printed reports of the Minister of Finance, and as they stand in the Provincial books in the Finance Department. No compilation of Committees can supercede these. Taking the Public Accounts then for a guide, the debt of Upper Canada in 1841 was not $5,925,779 54, but it was only $5,416,855 70. Instead of Lower Canada, after deducting its debt having at its credit $189,306 41, it had a debt of $488,369 83 over all credits; and if from this is deducted the Montreal Harbour Debentures of £81,409: 4: 7, it would still stand at $162,372 92. In short, there is scarcely a correct figure in the whole statement. To show what was the actual state of the debt of each Province and the assets, provincial in their character, brought into the Union on the 10th February, 1841, I subjoin the following statement from the Public Accounts, verified by the Provincial books in the Finance Department:

Debt of the Provinces at the Union, February 10th, 1841.

—	Upper Canada.			Lower Canada.		
	£	s.	d.	£	s.	d.
As per Tables in Public Accounts	1,346,633	5	5	123,675	0	0
Less—To credit, as per Consolidated Fund Statement, 1841..	19,089	5	7½	36,530	14	5
	1,345,543	19	9½	87,144	5	7
Add to Debt, as per do do ..	8,669	18	8¼	30,857	18	1
	1,354,213	18	5¾	118,002	3	8
Add also for sums credited above which could not be collected...				4,090	5	6
£	1,345,213	18	5¾	122,092	9	2
$	5,416,855	70		488,369	83	
Less—Montreal Harbour Debentures				325,996	91	
$	5,416,855	70		162,372	92	

Schedule of Assets which at the Union became "Provincial."

—	Paid by Upper Canada.		Paid by Lower Canada.	
	$	cts.	$	cts.
Welland Canal $	1,411,427	77	100,000	00
Burlington Bay Canal	124,356	08		
St. Lawrence do	1,407,444	43		
Rideau do	5,630	35		
Lachine do			308,404	15
St. Ann's Locks			19,860	02
Richelieu and Lake Champlain Navigation			322,441	58
Lachine, Coteau and Cedar Rapids			48,405	82
Light Houses, Beacons and Buoys	98,550	51	472,022	74
Slides and Booms on the Trent	41,822	67		
Do Newcastle District	43,320	00		
Kingston Penitentiary	176,795	01		
	3,309,346	82	1,361,136	32
Off—Lower Canada Assets	1,361,136	32		
$	1,948,210	50		
Debt of Upper Canada at the Union	5,416,855	70		
Less—Excess of Assets	1,948,210	50		
	3,468,645	20		
Deduct Debt of Lower Canada at the Union	162,372	92		
Leaving Debt of Upper Canada at $	3,306,272	28		
And Lower Canada nil.				
Less—Insurrection losses included in the Debt of U. C., as stated above, debentures for which were issued under 8 Vic., cap. 72, and were paid out of Upper Canada Tavern Licenses, £40,000.	160,000	00		
	3,146,272	28		
Deduct—Not having been incurred £117,800 cy., Welland Canal	471,200	00		
Leaving total Debt of Upper Canada	2,675,072	28		
And that of Lower Canada nil				

By the above statement it appears that the $5,925,779.54 debt of Upper Canada

dwindles down to $2,675,072.28, and the boasted surplus of Lower Canada of $189,306.41 disappears altogether. But I contend it is useless to discuss so absurd a proposition as to treat the matters under consideration in the manner proposed, on the specious pretence that to do so would be in accordance with the principles of a general partnership; but if it is to be done, the principle must run through the whole course of receipts and expenditures from the beginning of the Union to the end of it; in which case we shall not proceed far in the investigation before the balance will not only not be against Ontario, but largely, very largely, against Quebec. The question then may be asked, why object to the proposed method of dealing with the excess of debt and the assets to be divided in the British North America Act? I answer because it will be the occasion of the development of a state of things which would prove anything but satisfactory to the Province of Quebec, and might give rise to discontent at the present state of things in the most important portion of the Dominion, and might produce results which Quebec might find itself unable to accede to. My object is to arrive at some method which will be practicable, and at the same time founded on sound principles which will recommend themselves to the judgment of the people in both Provinces. If 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 Counsel 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 incumber-"ing them at the beginning;" and then at the end or dissolution of the partnership, to attempt to charge the one party or the other with a greater or less portion than half the debts, or to give to one party or the other more or less than half the assets—the principle being too well understood that in every partnership where the contrary is not expressly stipulated, each partner must be presumed to have brought in equal capital, and at the end of the partnership must share equally in the profits and losses, and in all the partnership property and assets. The only reason given for the course proposed is that it is inconvenient to do otherwise. But the question arises, on what authority can the principle of a general partnership be adopted and acted upon, and yet go into any and least of all a partial consideration of what each partner brought into the common concern, in the apportionment of profits and losses—that is—assets and excess of debt at the dissolution? Such a mode of dealing with the assets and liabilities of a general partnership is without any authority whatever. It has not one single characteristic of a general partnership. The name of partnership is used by the Counsel, but that is all. In the case of the Provinces, if it had been specially agreed that the Provinces should be united—that the revenues of each should be merged—and that at the dissolution each should be charged or credited with the debt each owed, or credited with the money each had at the union, and that all revenue and expenditure during the union should be considered equally advantageous to both,—(the very contrary of all which is expressly or impliedly declared in the Union Act of 1840), one could understand the proposition of the Counsel for Quebec. This, if in the nature of a partnership at all, would be one founded on a contract containing the most specific terms. But no such contract is pretended. The entire proposal is wholly arbitrary. It has not one solitary feature of any partnership whatever to sustain it; and yet it is put forth under the specious pretence and delusive guise that it is founded on the principles of a partnership entered into by two parties without any stipulation as to capital, profits or losses—which is called by the Counsel a general partnership, having neither the sanction nor the authority of the Roman, French or English law. It may be as well to understand what is the proper meaning of a general partnership:

> "General partnerships are properly such when the parties carrying on all their "trade and business, whatever it may be, for the joint benefit and profit of all "the parties concerned, whether the capital stock be limited or not, or the con-"tributions thereto be equal or unequal."—*Story on Partnership, sec.* 74.

Such a partnership without an express contract to the contrary would entitle each partner to share equally in the profits, and subject him to bear equally the losses. Now as I have already said, it is not pretended in the case of the Provinces there was any stipulations as to the *terms and conditions* of partnership contended for. What then if a general partnership be conceded, would on authority be its necessary incidents? Story in his work on Partnership, Secs. 24 & 25, says :—

"In the absence however of all precise stipulations between the partners as to their "respective shares in the profits and losses, and in the absence of all other controlling "evidence and circumstances, the rule of the common law is, that they are to share equally "of both; for in such a case equality would seem to be equity. And the circumstance "that each partner has brought an unequal amount of capital into the Common Stock, or "that one or more has brought in the whole capital, and the other have only brought in "industry, skill and experience would not seem to furnish any substantial or decisive "ground of difference as to the distribution; on the contrary the very silence of the part-"ners as to any particular stipulation, might seem fairly to import, either that there was "not, all things considered, any real inequality in the benefits to the partnership in the "case, or that the matter was waived on the grounds of good will, or affection, or liberality, "or expediency. * * * * * *

"The Roman Law promulgates the like doctrine. If no express agreement were made by "the partners concerning their shares of the profit and loss, the profit and loss were "shared equally between them. If there was any such agreement, that was to be faith-"fully observed. *Et quidem* (says Institutes), *si nihil de partibus lucri et damni nominatum "convenerit, æquales scilicet partes et in lucro et in damno spectantur. Quod si expressæ fuerant "partes, hæ servari debent.* So the Digest. *Si non fuerint partes societati adjecta æquas eas "esse constat.*

* * * * * * * * *

"This also seems to be the rule adopted into the modern commercial law."

It may be objected that while in a general partnership, in the absence of any express stipulation to the contrary, it is admitted that each partner will be considered as being equally entitled to an equal share of the partnership property and of all profits, and equally liable *inter se* for an equal share of all losses, and for deficiencies of the partnership assets to meet the partnership liabilities, still if the private debt of any partner is paid out of the common fund, that debt at the dissolution should be charged against that partner; and that in the case under consideration, it is only contended that the same rule should apply to the alleged debt of Upper Canada at the Union in 1841. But this mode of reasoning is fallacious, as a moment's reflection will demonstrate. Partnership or co-partnership has been defined by text writers on the law of partnership, to be "a combination of "two or more persons of capital, of labor or skill for the purpose of business for their "common benefit."—(*Parsons on Partnership.*) "It is a voluntary contract between two "or more competent persons, to place their money, effects, labor, and skill, *or some, or all "of them*, in lawful commerce or business with the understanding that there shall be a "communion of profits and of losses between them."—(*Story on Partnership.*) This same author further states that partners may not contribute equally, and that some of them may contribute neither money nor effects, nor labor nor skill, but all these may be "*waived upon the grounds of good will, or affection, or liberality, or expediency,*" and will be considered in law to have been waived, and that each partner was put on an equality as to community of the partnership property and liabilities with all the other partners, although he may have brought into the partnership much less than some one or more of the partners, or indeed nothing at all, unless the contrary shall appear by express stipulation or by evidence fairly deducible from surrounding circumstances, and the course of dealing of the partners *inter se.*

Now, let us clearly understand what the Counsel for Quebec mean. They say: "Let this division of the excess of debt and this division of assets proceed on partnership "principles." To do this, you must consider the debt of Upper Canada at the Union in 1841 to be its *private debt;* and the alleged cash in hand of Lower Canada, to be its *private cash;* and taking away this debt and this cash, that the Provinces entered into partnership, making all else in both Provinces common. That the joint concern, having

paid or assumed and become responsible for the debt of Upper Canada, Upper Canada is chargeable with it, and bound to pay it back; and that the united concern having had, and used the *private cash* of Lower Canada, is bound to pay back to Lower Canada that cash. They say that it is to be assumed that every thing during the partnership was equal and fair to both Provinces, and that an equal division of the excess of debt (the liabilities or losses of the partnership concern), and an equal division of the assets (the profits or debts due the partnership concern) should at the end or dissolution of partnership (the Confederation of the Provinces) take place. Now, as I have before said, does not any one see if this were correct, Upper Canada should be charged interest with annual rests on its debt for twenty-six years, and Lower Canada should be credited with interest with annual rests on its cash for the same period. The mere statement of this fact shows the nonsense of the whole thing. But we are not left to the *reductio ad absurdum*. This debt of Upper Canada, as I have already shown, was chiefly contracted for public works which passed over as the common property of both Provinces at the Union, and are now, by the British North America Act, made the common property of the Dominion. The supposed cash in hand of Lower Canada had no existence except in the imagination of the Counsel for Quebec. Instead of cash in hand, it was in debt, as I have also already shown. *Now, neither the debt of Upper Canada, nor that of Lower Canada, was in any sense whatever the private debt of either Province as disconnected from its revenue. In fact, the debt in each was simply a charge on its revenue made by various Acts of Parliament.*

It has no analogy whatever to the private debt of an individual entering into a partnership. It would more resemble a case of this kind. An individual might propose to another, that each should put his effects into a common partnership concern. The effects of each, or of one of them, being at the time incumbered, and known to be incumbered, to a certain extent. In such a case, in the absence of express provision to the contrary, the joint concern would be liable to discharge the incumbrances or incumbrance, and neither partner, *inter se*, would be liable therefor to the partnership concern, or to the other partner, but as between themselves each would be entitled to one-half of the profits and of the whole partnership effects, and be liable for one-half of the losses and of the whole liabilities. But unfortunately for the Counsel for Quebec this matter of the debt of Upper Canada and also the debt, or, if it pleases better, the cash in hand of Lower Canada, in the one case being a charge on Consolidated Revenue, and in the other being cash to the credit of Consolidated Revenue—is left in no doubt. If it should appear that it was expressly declared in the articles of Partnership (the Union Act of 1840), that the debt of Upper Canada, and if any existed, of Lower Canada, should be paid out of the joint revenues of both Provinces, which by the Union Act were transferred to the (if you so please) partnership concern of Upper and Lower Canada, called "Canada," and no stipulation was made that either Province was to be charged with, held responsible for, or be called upon to repay the same, I think it must be conceded that an end is put to the controversy. Well, then, what say the articles of partnership. The preamble to the Act of 1840, states, "Whereas it is necessary that provision be made for the good Gov-"ernment of the Provinces of Upper and Lower Canada in such manner as may secure "the Rights and Liberties and promote the Interests of all classes of Her Majesty's sub-"jects within the same: And whereas to this end it is expedient that the said Provinces "be re-united and form one Province for the purposes of Executive Government and "Legislation, therefore," &c., &c.

Section 1 declares the partnership to be formed. It says:

"1. From &c., the said Provinces shall form and be one Province under the name of "the Province of Canada, and thenceforth the said Provinces shall constitute and be one "Province under the name aforesaid from and after the day so appointed as aforesaid."

Section two removes all pre-existing ordinances inconsistent with the articles of partnership then made.

Sections from two to fifty prescribe the manner in which the Executive and Legislative Government of the subject of partnership should be constituted, managed and carried on.

Section fifty provides that all the income, revenues and effects of both the partners should be the joint property of the partners, in which each partner should have an equal

share without any regard to the amount or value of the revenues, income or effects which each contributed to the one common fund. It says:

"That upon the Union of the Provinces of Upper and Lower Canada all duties and "revenues over which the respective Legislatures of the said Provinces before and at the "time of the passing of this Act had and have power of appropriation shall form one con- "solidated fund to be appropriated for the Public Service of the Province of Canada in "the manner, and subject to the charges hereinafter mentioned."

By section fifty-one, the Consolidated Revenue Fund of the Province of Canada is charged with the costs, charges and expenses of collecting the Fund.

By sections fifty-two, fifty-three and fifty-four, certain other charges are made on the Consolidated Revenue Fund, including the Civil List to Her Majesty.

Section fifty-five, is special; and it would do no violence to its construction to say that it fully provides for any charges which the Legislature of the Province of Upper Canada or that of Lower Canada had previously made upon its Duties and Revenues, by the incurring of debts, which prior to the Union were made charges upon its Consolidated Revenue Fund. It is contended that this section is broad enough to cover, and does in fact in explicit terms cover, the reservation of Duties and Revenues sufficient to pay off all Upper Canada or Lower Canada debts contracted prior to the Union. It is as follows:

"LV. And be it enacted, that the Consolidation of the Duties and Revenues of the "said Province, shall not be taken to affect the payment out of the said Consolidated "Revenue Fund, of any sum or sums heretofore charged upon the Rates and Duties "already raised, levied and collected, or to be raised, levied or collected, to and for the "use of either of the said Provinces of Upper Canada or Lower Canada, or of the Province "of Canada, for such time as shall have been appointed by the several Acts of the Legis- "lature of the Province, by which such charges were severally authorized."

All the debts of Upper Canada, as well as of Lower Canada, were by Legislative enactments made charges on the "*Rates*" and "*Duties*" of each Province respectively. Therefore it is submitted that this section alone provides amply for the payment out of reserved "*Rates*" and "*Duties*" of all pre-existing debts. But the question is not left here. Section fifty-six says:

"LVI. And be it enacted, that the expenses of the collection and management and "receipt of the said Consolidated Revenue Fund, shall form the first charge thereon; and "that the *annual interest of the public debt of the Provinces of Upper and Lower Canada, or "either of them, at the time of the Re-union of the said Provinces*, shall form the second "charge thereon; and that the payments to be made to the Clergy of the United Church "of England and Ireland, and to Clergy of the Church of Scotland, and to Ministers of "other Christian denominations, pursuant to any law or usage whereby such payments, "before or at the time of passing this Act, were or are legally or usually paid out of the "public or Crown Revenue, of either of the Provinces of Upper and Lower Canada, shall "form the third charge upon the said Consolidated Revenue Fund; and that the said "sum of forty-five thousand pounds shall form the fourth charge thereon; and that the "said sum of thirty thousand pounds, so long as the same shall continue to be payable, "shall form the fifth charge thereon; *and that the other charges on the Rates and Duties "levied within the said Province of Canada, hereinbefore reserved, shall form the sixth charge "thereon, so long as such charges shall continue to be payable.*"

Particular attention is called to three points in sections fifty-five and fifty-six:

1. Section fifty-five expressly declares that any sum or sums of money theretofore charged upon the "*Rates*" and "*Duties*" of Upper or Lower Canada either already collected or thereafter to be collected should be paid out of the Consolidated Revenue Fund of Canada thereby formed of such "*Rates*" and "*Duties.*" *The debts of Upper Canada and Lower Canada were sums of money charged upon the said Rates and Duties by the several Acts of the respective Legislatures authorizing the creation of the several debts.*

2. By section fifty-six the interest on the public debt of the Provinces of Upper and Lower Canada or either of them at the time of the Union is made the second charge on the Consolidated Revenue Fund of Canada.

3. The other charges on the "*Rates*" and "*Duties*" levied within the Province of

Canada thereinbefore reserved, that is, reserved in section fifty-five, is made the sixth charge on the Consolidated Revenue Fund so long as such charges shall exist; that is, until from Consolidated Revenue Fund the principal of the debts of Upper Canada and Lower Canada, or either of them shall have been paid off—the interest of such debts having been declared to be the second charge on the Consolidated Revenue Fund. The fifty-fourth section reserves out of the "*Rates*" and "*Duties*" the charges made by the creation of the local debts of each Province. Section fifty-six makes the interest of such debts a second charge; and "the other charges on the Rates and Duties" that is *the principal of the debts* the sixth charge on the Consolidated Revenue Fund.

The foregoing, then, are the express terms upon which the partnership was formed; and it is worthy of remark that not the slightest trace of any intended inequality in respect of or on account of one or the other of the partners bringing into the partnership concern an unequal share or capital, that is, "*Rates*" and "*Duties*," which in the one case might be more or less heavily charged than in the other, can be found. Therefore whether you view the partnership as without stipulations, and therefore a general partnership, to which the well known and admitted rules of law are applicable, or regard it in the light of the special and precise stipulations upon which in fact it was formed, the conclusion is precisely the same. Both Provinces must be considered to have entered the Union on equal terms. The fact that the "*Rates*" and "*Duties*" of the one were more heavily charged than those of the other, or that the "*Rates*" and "*Duties*" of the one were charged with considerable sums, while those of the other were not charged at all, can make no difference either according to the law of Partnership or the express Agreements as found in the Union Act. And the truth is it should not, for while it may be admitted that the charges on the "*Rates*" and "*Duties*" of Upper Canada were greater than those of Lower Canada, it must also be admitted that the assets flowing from those greater charges in Upper Canada in the shape of Public Works, and which were made the joint property of both Provinces, were also greater. It would be, according to Partnership law, necessarily assumed that all advantages and disadvantages of the property and effects of each, charged or not charged, were well known and considered by the parties before forming the partnership, especially in the absence of all express declarations to the contrary on the subject. But when to this is added the express stipulations of the parties, unequivocally pronouncing *as doth the law, when stipulations are not found*, the same thing, argument becomes a waste of words. Further confirmation of this view, and which of itself as a matter of evidence ought to settle the whole controversy, is the fact that all the books of account, all the published public accounts of the late Province, all the legislation, running over a period of twenty-six years, prove the equality of the partners, and entirely remove any ground for setting up any claim as to inequality of capital at the beginning of the partnership, by maintaining throughout that period an unbroken silence, in so far as the legislation and the public accounts are concerned, on the subject. These are the only witnesses to which we can appeal or which we can summon, and they afford no evidence that any inequality existed in fact, or in the opinion of the partners in respect of the financial position in which each stood at the Union; on the contrary, these records construed according to the well-known principles of the law of evidence prove the very reverse of all this.

To keep up the partnership view of the case this partnership was by the British North America Act, dissolved in 1867. It was a dissolution by the agreement of the partners; the partnership was formed by the agreement of the partners, at least it must be so considered, and it was without any doubt dissolved by the consent and agreement of the partners. In the instrument of dissolution, it is provided that the partners should form a new and more extended partnership with the Provinces of Nova Scotia and New Brunswick;—that certain large properties and effects, beside large rates and duties of the several Provinces should be surrendered to the joint concern;—that a certain amount of debt charged on the rates and duties of the several Provinces, should be cast upon the rates and duties surrendered to the joint concern, while a certain amount of debt should be borne *by* themselves, and certain assets should be reserved *to* themselves. But the instrument of dissolution, while it defined and settled many things connected with the dissolution, did not state what portion of the debt which was to be borne by Upper Canada and Lower Canada, should be borne by each; nor what portion of the assets each should

have; but it provided for the appointment of arbitrators to adjust and settle these points; just as under the winding-up Acts, an Official Manager is appointed, or as in the case of disagreement among partners in settling their partnership accounts, or apportioning or dividing their liabilities or assets, a Court of Chancery steps in and through the Master, winds up the concern. In the case before us, instead of the Official Manager or the Court of Chancery, we have a Court of Arbitrators who are bound to deal with the questions before them, if they are to be dealt with on the principles of partnership, in the same manner as would an Official Manager or the Court of Chancery. In the first place, they must determine the character of the partnership, whether it be general, universal or special. In the second place, whether it is founded on written or verbal contract or stipulations, or on the assent of the parties, not evidenced by special agreement, written or verbal. In the former case, the written or expressed stipulations alone must govern in every matter to which they apply. In the latter case, the law steps in and lays down the rules which must prevail.

In the present case the Arbitrators are asked to apply the principles which control general partnerships without any written or express stipulations. As the Law applicable to such a partnership lays down rules which are the same as those which are found written and expressed in the Union Act of 1840, it makes but little difference whether the partnership be regarded as one *with* or *without* special stipulations. In either case the course of procedure must be the same. Both parties must be considered as having entered the partnership with effects equal in value, notwithstanding any charges thereon; and each party must be assumed to have derived equal advantages from the partnership during its continuance, and in the arrangements made in the formation of the Dominion of Canada. Then it follows according to the rules of law applicable to such a partnership that the debt reserved to be borne by the Provinces conjointly by the British North America Act must be equally divided, one half to be borne by Ontario and one half by Quebec. The same rule must be applied to the Assets,—Ontario should be assigned one half and Quebec the other half. These Assets differ in value. Fortunately, however, a value has been placed on them at the instance and by the consent of both the Arbitrators, and the Treasurers of the two Provinces. And therefore it will not be difficult for the Arbitrators to divide them according to their value.

Although I do not think the division, on the principle of partnership, at all comparable to the other modes suggested; still, if the Arbitrators think differently, and after all that has been urged against it, adopt it, it must be on the distinct understanding that it must be taken in its entirety, and that the law of partnership in its full depth, length and breadth must be applied, and followed out to its logical consequences.

The results of the partnership principle would be as follows:—Assume the excess of debt as before at $10,500,000 to be equally divided,

Ontario's portion would be	$5,250,000
Quebec's portion would be	5,250,000

Assume the Assets as valued at $4,204,322 12—

Ontario's share would be	$2,102,161 06
Quebec's share would be	2,102,161 06

The principle of a general partnership, without stipulations or with stipulations, cannot be adopted and then worked out partly on that principle and partly on the principle of a special partnership, with special stipulations, as is proposed by the Counsel for Quebec. The moment you take into account the value of the Capital Stock (Rates and Duties), each brought into the Union, and the charges with which such capital stock (Rates and Duties) were encumbered, then you must proceed on that principle throughout. It is impossible any one can contend that on the principle of partnership accounts, or any other principle whatever, you can take an isolated item, for example, as is proposed by the Counsel for Quebec in this case, a charge or incumbrance on the Rates and Duties brought into the partnership concern and stop short there—making no inquiry into the assets created by this very debt or charge, and handed over to the partnership firm, and no investigation into the partnership dealings and transactions during the long period the partnership continued. If it be assumed that absolute equality did not exist at the beginning, and did not

continue throughout the partnership in all its accounts and dealings, and at its end, but on the contrary *that there was inequality at the beginning*, then the Arbitrators will have made up their minds to discard, in the consideration of this question, the provisions of the Union Act of 1840, to which I have referred, and the subsequent legislation of the late Province of Canada throughout the period of the Union, and must proceed to take the accounts according to law, as follows :—

"1. Ascertain how the firm stands as regards non-partners," (which in the present case would be the amount of the excess of debt over $62,500 000, a matter to be determined not by the Arbitrators, but by the Dominion Government and the Provinces.

"2. Ascertain what each partner is entitled to charge in account with his co-partner, "remembering in the words of Lord Hardwicke, that each is entitled to be allowed, as "against the other, everything he has advanced or brought in as a partnership transaction, "and to charge the other in account with what that other has not brought in, or has taken "out more than he ought.

"Apportion between the partners, all profits to be divided, or losses to be made good, "and ascertain what, if any thing, each partner must pay to the other in order that all cross "claims may be settled. In order therefore to take a partnership account it is necessary "to distinguish joint estate from separate estate; joint debts from separate debts; and to "determine what gains and what losses are to be placed to the joint account of all the "partners or to the separate account of some or one of them exclusively."—*Lindley's Law of Partnership p. 828.*

This author goes on to say—"The principles on which this is to be done have been "explained in previous chapters. Referring the reader therefore to them, and reminding "him that in taking the accounts between partners, attention must be paid not only to the "terms of the partnership articles, but also to the manner in which they have been acted "on by the partners, there remains but little to add on the present subject, except as regards "just allowances, the period over which the account is to extend and the evidence upon "which it is to be taken."

In the latter quotation reference is made to "the terms of the partnership articles, and the manner in which they have been acted on by the partners." In the present case reference to the Union Act of 1840, and to the manner in which the provisions of that act were acted on during the Union, as evidenced by the Statutes passed under it, including the appropriation acts for each year, and the records contained in the Public Accounts published annually, *would, in any court of law or equity forever preclude any other accounting than an equal division of the excess of debt and of the assets.* I make this observation to show that this portion of the direction of the author in taking the account is inapplicable in the view I am now discussing of applying the partnership principle to the adjustment of the debts, credits &c., of the Provinces. For if reference is made "to the terms of the "articles of partnership, and the manner in which they have been acted on," for one purpose, it must be for all purposes. They must be excluded entirely, or acted upon altogether in respect of all matters to which they apply; and in the present case they apply to every transaction whatever. But assuming they do not apply, and assuming that the "*charge on the Rates and Duties*" of Upper Canada, called its debt, as also the state of the Exchequer of Lower Canada, called its credit or cash in hand, are to be taken into account in the apportionment of the excess of debt and the division of the assets, it inevitably follows as a rule of law, sanctioned by every principle of Justice, that the account between Upper and Lower Canada must be taken as follows :—

1. An account of the debt of each Province at the Union, assumed by United Canada.

2. An account of the value of the assets in the nature of public works of each Province transferred to United Canada,

3. An account of the net revenue derived from each Province, during the Union from sources other than from public works which were provincial in their character, and although situate entirely in one Province were common to both, as for example the Welland Canal, St. Lawrence Canals, Lake St. Peter Works, Chambly Canal, Works on the Ottawa, Slides, &c.

4. An account of the revenue derived from the works mentioned in the third paragraph.

5. An account of the expenditure in each Province on objects or for purposes other than those mentioned in the third paragraph.

6. An account of the expenditure on objects or for purposes mentioned in the third paragraph.

In order that disputes may be avoided, the public accounts should be strictly adhered to in taking the accounts. The total debt after deductions to be made according to the British North America Act will be given by the Dominion Government—from it will be deducted $62,500,000, which, in so far, as Ontario and Quebec are concerned removes altogether from the consideration of the Arbitrators this sum—Ontario and Quebec paying their proper proportion into the Dominion Exchequer. Therefore it will only be the excess of debt over this amount with which the Arbitrators will have to deal.

The accounts being taken in accordance with the above six propositions, it will be seen whether Lower Canada has paid more or less into the Treasury of the late Province from local or Lower Canada sources than it has drawn out of it for local and Lower Canada purposes and objects; if more, the late Province will be indebted to it for the excess; if less, it will owe the late Province what it has drawn out over its contributions into the Common Treasury.

The same consequence will attach to Upper Canada, and the apportionment of the excess of debt and the division of the assets will be made between the two Provinces accordingly.

I have now said all I think it necessary, at present, to say on the subject. It seems to me, it would be well in the first place, carefully to consider in connection with the whole subject, the Union Act of 1840. In my judgment, it lays down a broad and fundamental basis which must be taken to be the solemn contract between the parties, and from the provisions of which no departure can be permitted. Here is something tangible, something explicit, something which cannot be denied, and which on all occasions can be invoked in justification of all things done in conformity to its stipulations. Let the question be asked with respect to every view which has been taken of the subject and every suggestion which has been offered, "what says the Constitutional Act, under which Upper Canada and Lower Canada became re-united in relation to this matter?" In the second place, it would, I submit, be well attentively to consider and never to lose sight of the fact that the annual appropriation Acts were passed by the Legislature in view of and with full notice and knowledge of all the circumstances of the Union and of the contributions made to the revenue by each Province, and that therefore it must be assumed that the Legislature has adequately provided for, met and satisfied the just claims of each Province. Neither should it escape attention that the proper adjustment of the apportionment of moneys has been recognised, and expressly acted on in many acts of the Legislature of the late Province. It was done in the Rebellion Losses Act, which as compensation to Upper Canada gave to it its Marriage License Money. It was done in the Seignorial Act of 1854 when $600,000 was specially set apart for Upper Canada purposes as compensation for that amount charged on Consolidated Revenue Fund for the redemption of Seigniorial rights. It was again done in 1859 when compensation to the amount of upwards of $2,218,000 charged upon Consolidated Revenue Fund in respect of Seigniorial rights was carried to the credit of the Municipal Loan Fund of Upper Canada. It was yearly done in the Appropriation Acts in respect of Common Schools, Colonization Roads, Charitable and Educational Institutions, in short in almost every grant of public money for local as distinguished from general Provincial objects. If these facts with the manner in which the Public Accounts have been kept, and the manner in which the debt of the Dominion was adjusted in Confederation, are taken into consideration and duly weighed, it seems to me the arbitrators cannot be at a loss or have even doubts as to the judgment at which they should, nay necessarily must, arrive.

Arbitrators met in Convocation Room, in Osgoode Hall, in the City of Toronto, on Thursday, August 25th, 1870.

Hon. E. B. WOOD said: I propose, while the Auditor is here, to take up and discuss before the Court of Arbitration the following statements of the debts created for local purposes in each Province, and forming part of the gross debt of the late Province of Canada. But before doing so, I will read the judgment of the Arbitrators on the princi-

ple and mode of procedure in the division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada, the subject matter of the reference, pronounced on the 28th day of May last—Judge Day dissenting—which is as follows:—

"The Arbitrators, under the British North America Act, 1867, having carefully considered the arguments offered, and the propositions submitted respectively, by and on behalf of the Provinces of Ontario and Quebec, and having heard Counsel at length thereupon, do award and adjudge as follows:

"Firstly—That the Imperial Union Act, 3rd and 4th Victoria, chapter 35, did not create, in fact or in law, any partnership between Upper and Lower Canada, nor any such relations as arise from a state of co-partnership as between individuals.

"Secondly—That the Arbitrators have no power or authority to enter upon any enquiry into the relative state of the debts of the Provinces of Upper and Lower Canada respectively, at the time of their Union in 1841 into the Province of Canada.

"Thirdly—That the division and adjustment between Ontario and Quebec of the excess of debt beyond sixty-two millions five hundred thousand dollars, for which, under the 112th section of the British North America Act, 1867, Ontario and Quebec conjointly are liable to Canada, shall be based upon the origin of the several items of the debts incurred by the creation of the assets mentioned in the fourth schedule to that Act, and shall be apportioned and borne separately by Ontario and Quebec, as the same may be adjudged for the local benefit of either; and, where the debt has been incurred in the creation of an asset for the common benefit of both Provinces, and shall be so adjudged, such debt shall be divided and borne equally by both.

"Fourthly—That where the debt under consideration shall not come within the perview of the fourth schedule, whether the same shall or shall not have left an asset, reference shall be had to its origin under the same rule as in the last preceding section laid down.

"Fifthly—That the assets enumerated in the fourth schedule to the B. N. A. Act, 1867, and declared by the 113th section to be the property of Ontario and Quebec conjointly, shall be divided and adjusted, appropriated or allowed for upon the same basis.

"Sixthly—That the expenditure made by the creation of each of the said assets shall be taken as the value thereof; and, when no asset has been left, the amount paid shall be taken as the debt incurred—the Arbitrators having no right to enter into or adjudicate upon the policy or advantages of expenditures or debts incurred by authority of, and passed upon by Parliament.

"Seventhly—It is therefore ordered that, in accordance with the above decision, the Counsel for the said Provinces of Ontario and Quebec do proceed with their respective cases.

Debts created for Local Purposes in Quebec forming part of the Debt of the late Province of Canada.

1. Aylmer Court House Six per cent. Debentures			$2,000 00
Do. do. Account Current			1,239 70
2. Montreal Court House Debenture Account			95,600 00
Do. do. Account Current			18,996 21
3. Kamouraska Court House Account Current			201 27
4. Royal Institution			7,790 00
5. Consolidated Municipal Loan Fund, Lower Canada, Capital Account	2,428,140 00		
Less Sinking Fund, &c.	271,452 86		
			2,156,687 14
Do. do. Interest Account			782,742 83
6. Lower Canada Legislative Grant			28,494 73
7. Quebec Fire Loan			264,254 65
8. Temiscouata Advance Account			3,000 00
9. Education East			290 10
10. Building and Jury Fund, Lower Canada			116,475 51

11. Municipalities Fund, Lower Canada			191,330 42
12. Lower Canada Superior Education Income Fund	230,681 46		
Interest on Investment	3,600 00		
			234,281 46
13. Seigniorial Fund of 1854 based on Tavern Licenses, &c.	834,444 40		
Do. do. charged on Consolidated Revenue	600,000 00		
			1,434,444 40
Do. do. short paid to 1867			80,201 00
14. Charges on Consolidated Revenue under Seigniorial Act, 1859, as under:			
Capital of General Seigniories	2,776,380 36		
Add Seigniories St. Sulpice	336,719 66		
Add Lower Canada Sup. Ed. (Jesuits' Estates)..	92,583 83		
	3,205,683 85		
Less Balance Fund, 1854 ...	697,824 97		
			2,507,858 88
15. Indemnity to Townships, Lower Canada			756,710 00
			$8,682,591 30

Debts created in Ontario for Local Purposes forming part of the Debt of the late Province of Canada.

1. Upper Canada Building Fund			36,806 00
2. Law Society Upper Canada, Debenture Account		16,000 00	
Do. do. Account Current...		140,015 61	
			156,015 61
3. Consolidated Municipal Loan Fund, Upper Canada, Capital Account	7,300,000 00		
Less Sinking Fund ...	429,548 63		
	6,870,451 37		
Less Capital of Indemnity Account under Seigniorial Act, 1859, as follows:			
Capital of General Seigniories $2,776,380 36			
Do. Seigniories of St. Sulpice..... 336,719 66			
Do. Seigniories, Jesuits' Estates, Superior Education, Lower Canada..... 92,583 83			
3,205,683 85			
Deduct Balance of Fund, 1854..... 697,824 97	2,507,858 88		
			4,362,592 49
Interest Account:			
Interest on above Capital ($7,300,000)	3,517,084 26		
Less Interest on Seigniorial Indemnity	1,552,175 19		
			1,964,909 07
4. Agricultural Society, Upper Canada			4,000 00
5. University Permanent Fund			1,220 63
6. Indemnity under Seigniorial Act, 1854 ...		600,000 00	
7. Do. do. do. 1859 ...		2,507,858 88	
			3,107,858 88
			$9,633,306 68

Origin of Debt.

According to the judgment of the Arbitrators, the excess of debt over $62,500,000 is to be divided in proportion to the expenditure in each Province on purely local objects, and which expenditure has in fact created the excess of debt over 62½ millions. It becomes necessary, therefore, to go into the history of such local expenditure creating the debt, in order to show that it *was local*, and to demonstrate that it forms part of the *gross debt* of the late Province. In doing this, the assets which such expenditure has left behind it (wherever it has left any asset) form a valuable, I may say an unerring guide to the origin of a portion of the debt of the late Province. In every case of local expenditure which has added to the debt of the late Province, a nominal asset at least has been left, indicating the debt thereby created; except the expenditure under the Seigniorial Legislation of 1854 and 1859. This legislation in its ultimate consequences made the late Province liable for the following capital. Every asset is presented in the schedule of debts; but every debt is not represented in the schedule of assets, because the expenditure in connection with the Seigniorial tenure left no asset.

Seigniorial Act, 1854.

Capitalization of Revenue from the Seigniory of Lauzon, and Tavern Licenses, &c.—these revenues having now passed to Lower Canada ...	834,444 40
Direct charge on Consolidated Revenue to redeem Seigniorial Dues over and above the preceding sum	600,000 00
Equivalent charge thereon as Compensation to Upper Canada, now forming part of the Upper Canada Building Fund	600,000 00
Deficit of local revenues to 1st July 1867	80,201 00
Total capital charged on Consolidated Revenue under Act of 1854 ...	$2,114,645 40

Seigniorial Act, 1859.

Capital of General Seigniories	2,879,924 50		
Less Quint	103,544 14		
	2,776,380 36		
Add Capital of the Seigniories of St. Sulpice.	336,719 66		
	3,113,100 02		
Less Balance of capital of Fund of 1854, unexpended	697,824 97		
		2,415,275 05	
Add Capital of Compensation to Townships		756,710 00	
Add Jesuits Estates, Superintendent of Education, Lower Canada		92,583 83	
			3,264,568 88
Capital of Indemnity to Upper Canada Municipal Loan Fund, as Compensation to Upper Canada, as follows:			
Capital of General Seigniories, less Quint, as above...		2,776,380 36	
Capital of Seigniories of St. Sulpice		336,719 66	
Capital of Jesuits Estates given to Superintendent of Education, Lower Canada		92,583 83	
		3,205,683 85	
Less Balance of Fund of 1854, unexpended, as preceding		697,824 97	
			2,507,858 88
Total Capital added to the Debt of the late Province by the Seigniorial Legislation			$7,887,073 16

Of this Capital there was created for Local Purposes in Lower Canada, as follows:—

Act of 1854		1,514,645 40
Act of 1859:		
Capital of General Seigniories, less Quint	2,776,380 36	
Seigniory of St. Sulpice	336,719 66	
Indemnity to Townships, Lower Canada	756,710 00	
Jesuits' Estates, Lower Canada, Superintendent of Education	92,583 83	
	3,962,393 85	
Less Balance of Capital of 1854, unexpended	697,824 97	3,264,568 88
Total Lower Canada		4,779,214 28

And the Compensation to Upper Canada is as follows:—

Indemnity under the Act of 1854, now forming part of the Upper Canada Building Fund	600,000 00	
Indemnity under Act of 1859, carried to the credit of the Municipal Loan Fund	2,507,858 88	
Total Upper Canada		3,107,858 88
Total Upper and Lower Canada		7,886,773 16
Difference in favour of Lower Canada		1,591,156 40

But if the indemnity to Upper Canada, under the Act of 1859, be taken, as stated by Mr Langton, in the Public Accounts of 1867, at $2,218,555.39 (page 91), leaving out of that indemnity $196,719.66, charged to Lower Canada Municipalities Fund, and $92,583.83, capital of Jesuits' Estates carried to the credit of Superior Education, Lower Canada, and for which is argued that it was not intended that Upper Canada should have any indemnity, the total to Upper Canada would be only $2,818,555.39, instead of $3,107,558.88, and the difference in favour of Lower Canada, $1,960,658.89.

(With accumulations of interest on it from 1859 to 30th June, 1867!)

If the Quint, which was a Crown Revenue, and given up to Lower Canada, be added to the Lower Canada capital, it will make that of Lower Canada $4,882,758.42 and the difference in favour of Lower Canada $2,064,203.03, besides interest as already stated.

The revenues formed by the capitalized receipts from the Seigniory of Lauzon, and Tavern and other Licenses, under the Act of 1854, have now passed to Lower Canada: and the capital thereby added to the Debt of the late Province, and which now forms part of the $3,113,100.02 entered into the Debt, was $834,444 40; that is, it now forms part of that sum, except what had been previously paid away; but what was previously paid away is also added to the Debt, because the money was not paid through current revenue, but was paid by borrowing on debentures. It certainly added so much to the Debt of the late Province, whether paid away or not.

To provide a fund sufficient as was alleged to redeem the Seigniorial dues, the statute made a direct further charge upon the Consolidated Revenue of $600,000, and gave an equivalent sum thereout or a charge thereon as compensation to Upper Canada, which now forms part of the Upper Canada Building Fund. These two sums, with the $834,444 40 just mentioned, make a total of capital added to the Debt of the late Province by the Seigniorial Legislation of 1854 of $2,034,440.40.

Under the Seigniorial Act of 1859, the capital of General Seigniories, by the schedules of the Commissioners, was estimated at, and found to be, $2,879,924 50. Under the authority of the Act of 1854, for the relief of the Censitaires, the *Quint*, which was payable by the Seigniories to the Crown, was estimated and taken off from the capital

of the Seigniories. This was Crown revenue, and formed part of the Consolidated Revenue Fund of the Province of Canada. This Crown revenue, to the extent of $103,544.14, was surrendered and given up altogether in addition to the other charges I have mentioned.

Deducting the Quint, and adding the capital of the Seigniories of St. Sulpice, gives the sum of $3,113,100.02. That is the sum at which the capital now stands in the public accounts.

There is then taken from that amount the item of $697,824.97, "balance of capital of 1854, unexpended." The capital of 1854, provided by the Act for the extinguishment of Seigniorial rights, was as I have said, $1,434,444.40. Commissioners were appointed under that Act, and the expenses ran on until, the Auditor says, in 1866, when he made these accounts up, discounting the payments made back to the 4th May, 1859, the day the Act of 1859 was passed, there was only a balance remaining of that fund of $697,824.97. That having been already charged upon Consolidated Revenue Fund, ought to be taken from the total capital of the Seigniories.

Proceeding with the calculations as shown in the tabular statement, we obtain a total of $7,886,773.16 added to the Debt of the late Province on capital account, by the Seigniorial Legislation, and this, too, leaving out the Quint. Now that large sum has not left a single asset behind it.

I wish to show precisely how Upper Canada has fared under this legislation for exclusively local objects, and I do it in the concluding part of the tabular statement, which shows that on the Seigniorial Legislation alone, Lower Canada got more than two millions of dollars for which there was no pretence whatever of giving Upper Canada any equivalent at all, and that in addition to the Quint ($103,544.14), a surrender of revenue which belonged as much to Upper Canada as any Crown lands in Upper Canada belonged to Lower Canada.

I do not mean to say that the interest at six per cent. was not paid on this capital *in toto*; but if it were paid, it nevertheless trenched so far on current revenue that for that and other purposes of the Provinces, other loans had to be made.

(In reply to Col. Gray.) Interest, if paid at all, was paid out of capital.

If the Quint, which was a Crown revenue, and given up to Lower Canada, be added, it will make the difference in favour of Lower Canada $2,064,203.03, besides interest as already stated.

The interest on this large sum ($7,886,773.16) prior to 1st July, 1867, was not wholly paid out of current revenue, but was paid partly by further increasing the Debt of the late Province, partly from current revenue, and to a large extent by allowing it to accumulate at compound interest, which is now added to the Debt of the late Province from the open accounts in the Provincial ledger; none of it, either principal or interest, having left any asset behind. You will see, in illustration of this, that there was a small balance put down in the Public Accounts, 1867, as due to the Seigniories, a very large sum due to the Townships, and that the $600,000.00 equivalent to Upper Canada under the Act of 1854, now forming part of the Upper Canada Building Fund, had increased, by unpaid arrears, from $600,000.00 to nearly twice that amount.

Hon. Mr. MACPHERSON: The revenue during the six years preceding the Union was insufficient to meet the requirements of the Province, and money had to be borrowed.

Hon. Mr. WOOD: Yes. I mean to say that the debt of the country was increased enormously in the way I have mentioned.

Hon. Col. GRAY: There is no doubt that the debt of the country was increased to make up this interest.

Hon. Mr. WOOD: We know that credit was taken, and that the Building Fund has been on compound interest since 1854. We know that this has added to the debt, because it goes in and makes up part of the schedule of the debt as it appears in the Public Accounts.

Now, to ascertain what portion of the Debt of the late Province is composed of these expenditures for objects exclusively local, it becomes necessary carefully to examine the history of each local asset, as well as the expenditure under the Seigniorial Legislation to which I have referred. And first I will consider:—

The assets which have been left behind by the Debts which have been created for Local Purposes in Quebec, and forming part of the Debt of the late Province.

1. Aylmer Court House.

Six per Cent. Provincial Debentures	$2,000 00
Account Current for Interest paid thereon	1,239 70
	$3,239 70

The whole issue of debentures under this head was, according to the Public Accounts, 1867, page 14, $21,674.97, and the authority given is 12 Vict., c. 112. Of these, $2,000 were six per cent. Provincial debentures, or debentures issued by the Province under authority of 18 Vict., c. 164. The remaining $19,674.97 are eight per cent. debentures, issued on the credit of certain fees and collections imposed, and to be made and set apart for their payment, by the Act 12 Vict., c. 112, which Act expressly declares that these debentures should not be paid out of Consolidated Revenue Fund or other existing funds of the Province. The Province is bound to see to the proper application of the moneys set apart, but has no other responsibility. The collection of the fees, &c., is in the hands of Quebec, and in making their award, the Arbitrators may or may not notice these debentures. If noticed at all, it should simply be to declare that it should be the duty of Quebec to see that the local tax or revenue collected was duly paid over to the debenture holders.

I make this remark in reference to the Act. I do not see that any obligation whatever rests upon the late Province of Canada. It expressly declares that these debentures shall be no charge upon Consolidated Revenue Fund. I suppose that in good faith the Government ought to see that the income is properly applied. As the officers who control this matter are the officers of Quebec, the obligation rests upon those officers, and therefore upon Quebec to see to it, that this Act is properly carried out. If noticed at all by the Arbitrators in their award, as I have said, it should be simply to declare that Quebec shall see to it—that the tax collected is paid over to the debenture holders.

I refer to item 3 of Mr. Langton's statement of assets furnished to the Arbitrators, printed in the Sessional Papers of Legislative Assembly, 1869, *Paper No.* 20, *page* 32. *Mr. Langton's "Arbitration," page* 4, *"Court Houses, Lower Canada," eight per cent. debentures; and to the statement of the Debt of the late Province, Public Accounts,* 1868, *part* 3, *page* 70

The account current, $1,239.70, is for accumulations of interest on the six per cent. debentures remaining unpaid. The eight per cent. debentures forming the first charge on the income. These six per cent. debentures, and the arrears of the interest, are assumed by the Dominion, and are charged into the Debt of the late Province; and the Court House Fund owing the late Province for these debentures, assumed by it, and arrears of interest, both principal and interest become an asset of the late Province.

My meaning is, that these debentures were issued upon the credit of the Court House Fund by the late Province; they have been assumed by the late Province, charged as part of its debt, and, therefore, now become a local debt of Lower Canada; and at the same time an asset, because ultimately the Court House Fund is bound to repay the amount thereof. As to the eight per cent. debentures, as Mr. Langton says, the late Province not being liable, they have been struck out of the statement of the Debt of the late Province.

2. Montreal Court House.

Six per Cent. Debentures	$95,600 00
Account Current	18,996 21
	$114,596 21

These debentures were issued under the authority of the Act 18 Vict., c. 164. They are six per cent. Provincial debentures, and were issued on the credit of the income provided in the Act, which was to be paid into Consolidated Revenue Fund to relieve these

debentures, or recoup the Province for anything it might have to pay on their account. Of the debentures issued under the authority of the Act, $95,600.00 remain outstanding. These were charged into the Debt of the late Province, and assumed by the Dominion. Therefore, the income of the Montreal Court House owes to the late Province their amount, and they thereby become an asset of the late Province. *The account current*, $18,996.21, is for advances made on account of Montreal Court House, and is charged in as part of the Debt of the late Province. It is a debt due from the Court House income to the late Province, and therefore an asset. *I refer to* 12 *Vict., c.* 112; 18 *Vict., c.* 164; *Public Accounts*, 1857, *pages* 1½ *and* 3; *Mr. Langton's Statement of Assets, items* 5, 6, *Public Accounts* 1868, *part* 3, *page* 70.

3. Kamouraska Court House.

Under the authority of 12 Vict., c. 112, $8,955 eight per cent. debentures were issued. They are in precisely the same position as the eight per cent. debentures of the *Aylmer Court House*, noticed previously. The late Province was not liable for them, and therefore they are not an asset, and not taken into account in the debts or assets. *Vide P. A.*, 1857, *page* 1½; *Langton's Statement of Assets, item* 7; *Langton's Arbitration, page* 5.

Kamouraska Court House Account Current $201 27

Before the Building and Jury Fund, Lower Canada, was established, certain charges for maintenance of this Court House had to be paid by Government out of the Kamouraska Court House Fund, besides the amounts paid away on the eight per cent. debentures. This amount, $201.27, is a remnant of those charges; it is a debt due from the Fund to the late Province, and therefore an asset. *P. A.*, 1867, *page* 3; *Mr. Langton's Statement of Assets, item* 8.

4. Royal Institution, *otherwise* McGill College $7,790 00

This was a loan to McGill College. It is a debt due from that Institution to the the late Province; it, therefore, with accumulations of interest, is an asset of the late Province. *P. A.*, 1865, *page* 5; *Mr. Langton's Statement of Assets, item* 13; *Mr. Langton's Arbitration, page* 6.

5. Consolidated Municipal Loan Fund, Lower Canada.

Capital		2,428,140 00
Less *Sinking Fund*	270,462 86	
Short credited: *vide* Public Accounts, 1868, part iii., page 4; Public Accounts, 1867, page 2, as to Sinking Fund	113 53	
		271,452 86
		2,156,687 14
Interest in arrear	782,735 34	
Short charged: *vide* Public Accounts, 1868, part iii., page 5	7 49	
		782,742 83
		$2,939,429 97

For explanation as to the Municipal Loan Fund, reference is made to 28 *Vict., c.* 13; 16 *Vict., c.* 22; 22 *Vict., c.* 15; *Consolidated Statutes of Canada, c.* 83; *Public Accounts*, 1867, *page* 3. *In the latter it is given under the head "Lower Canada Municipal Loan Fund Account," at* $2,428,140; *and the Sinking Fund is found on page* 2, *on the opposite side*, 3*rd item from bottom of page.*

By reference to the Acts establishing this fund it will be found to be a scheme by which Municipal debentures might be negotiated without loss. The Municipalities passed by-laws for a loan, and issued debentures upon them. These were deposited with the

Government, and upon their deposit the Government issued Provincial debentures based upon the credit of the Municipalities, which were negotiated, and the proceeds paid over to the Municipalities. The Province became responsible only for the due application of these debentures of the moneys paid to it by the Municipalities. The Municipalities soon made default, and, as a consequence, the Municipal Loan Fund debentures went into default. In 1859, however, the Government took up all these debentures and substituted its own for them, bearing five per cent. interest. Since that time loans, under the Municipal Loan Fund Acts, have been discontinued.

The Municipalities in Upper Canada who borrowed under the Upper Canada Act were about forty in number, and of these some twenty are in default. The defaulters are not rural Municipalities, but chiefly towns like Port Hope, Brantford, &c. Because twenty Municipalities were in default in Upper Canada, an actual charge upon the whole taxable population was made for the exclusive benefit of Lower Canada of $3,261,568.88, And all this was done under the pretence and delusion contained in 22 Vict., c. 48, sec. 20 (Seigniorial Act, 1859), that Upper Canada was to be fully indemnified from this large sum, made a charge on the common exchequer of the country,

The clauses of the Act to which I refer are as follows:—

Indemnity to Upper Canada and to the Townships of Lower Canada.

"A sum of money equal to that which under the foregoing provisions will be pay-"able yearly to Seigniors in Lower Canada out of Provincial Funds over and above the "amount payable to them out of the Fund for the relief of the Censitaires under the Seig-"niorial Act of 1854 shall be payable yearly out of the Consolidated Revenue Fund of "this Province to the credit of the Upper Canada Municipal Loan Fund, in reduction of "the advances that have been or may be made from time to time from Provincial Funds "on account of the said Fund: Such payment shall not in any way extinguish or diminish "the individual liability of the Municipalities, which have become indebted upon the "security of the said Loan Fund, but the said yearly sum shall, so soon as the Province "ceases to be under advances to the said Loan Fund, be added to the Upper Canada Muni-"cipalities Fund (clergy reserves) and be distributed in like manner; and so long as any "Municipality shall at any time be in default in any payment which ought to have been "made by it to the said Loan Fund, such Municipality shall have no share in the distri-"bution of the Upper Canada Municipalities Fund (arising from the clergy reserves) "which shall be made while such Municipality is so in default, and the share it would "otherwise have had shall go to the other Municipalities. The sums payable under this Act "shall be in addition to the sum to be appropriated for local purposes in Upper Canada "under the Seigniorial Act of 1854."

Lower Canada said: Inasmuch as the Government of the whole Province is responsible for the payment of the interest on the sums borrowed by these defaulting Municipalities, give Lower Canada money to redeem its Seigniorial tenure, and Upper Canada shall have compensation by carrying to the credit of the Municipal Loan Fund of that section, on account of the defalcations of these Municipalities, a semi-annual sum equal to the semi-annual sum paid on the capital of the Seigniories to the Seigniors. So Lower Canada got the large sum I have mentioned under the delusions held out in the section of the Act I have quoted. Upper Canada never has got, nor will it ever get one dollar for the pretended indemnity given it under the Act cited All that it got, or ever will get, for the $8,000,000.00 capital added to the debt of the whole country by this Seigniorial Legislation was the sum of $609,000.00 carried to the credit of the Upper Canada Building Fund under Seigniorial Act of 1854.

6. Legislative Grant, Lower Canada, Advance to Superior Education, Lower Canada.....$28,494.73

The distribution of school moneys was provided for in an Act as far back as 8th Vic., to be found in the Consolidated Statutes of Canada. The provision was that school moneys were to be apportioned between Upper and Lower Canada "in proportion to the relative population of the same respectively, as such population should from time to time

be ascertained by the next preceding census in each Province. That is found in 7th Vic., cap. 9, sec. 1; Consolidated Statutes of Canada, cap. 26, sec. 5. Therefore, the rightfulness of this charge is apparent. It was found, Mr. Langton says, on going into the school grant in 1856, that Lower Canada had systematically overdrawn its school moneys. But as it was very clamourous for money, of course the Finance Minister was induced to let this pass; and, instead of diminishing the annual grants, a separate account was opened, and the result was at the Union an overdraft of $28,494.73. This item, then, is a debt owing by the Lower Canada Education Fund to the late Province, for which Upper Canada has had no equivalent granted, and it now becomes an asset. It is important to notice that the school grants were always made according to the population of the last census. There you have a rule laid down by law for the division of the Common School Fund between Upper Canada and Lower Canada.

7 Quebec Fire Loan, Lower Canada.....$264,254.65.

This is the amount at which this Fund stands in the books of the late Province. For explanation as to this item, *vide Mr. Langton's statement of assets, item* 20, *and Mr. Langton's arbitration, page* 6; 1867, page 3; 9th Vic., cap. 62.

8. Temiscouata Advance Account.....$3,000.00.

This was an advance to certain Municipalities in the county of Temiscouata, on account of the Seigniorial Indemnity coming to the Townships. Proper accounts of the expenditure could not be obtained. It therefore has not been charged against the interest or semi-annual payments on the Indemnity to the Townships. Hence it stands as a debt against those Municipalities who received the money, and is therefore an asset. *Vide Mr. Langton's statement of assets, item* 21, *pub., accts.* 1855, *page* 5.

Mr. Langton: In 1866, before we knew anything about Schedule Four to the B. N. A. Act, we transferred this item to the debit of the Seigniorial Indemnity to the Townships, because it was an advance on the credit of that fund. We have had a great deal of trouble in ascertaining what Townships got it. But as you have determined, wisely, I think, to go absolutely by Schedule Four to the B. N. A. Act, the Dominion must restore this item to its former position, which is equivalent to adding $3,000 to the sum of $130,347.39 arrears of Seigniorial Indemnity to the Townships. But the Capital of that indemnity would remain untouched. It is a Township Indemnity, and has nothing to do with the Seigniories.

Mr. Wood: Of course that will be the manner in which it will be treated by the Dominion. But this $130,347.39 arrears is an apt illustration of the increase of the Debt of the late Province by the Interest on the Capital.

Mr. Langton: If you restore the Item to the Assets, the Dominion must add the same to the Debt.

Mr. Wood: I propose to treat it as an Asset. I think the arbitrators are bound to do so; and cannot see how they could do otherwise, except by consent of parties, it being expressly named in the Fourth Schedule to the British North America Act.

9. Education East.....$290.10

This is a balance of a defalcation in the Education Office, Lower Canada. It is a Debt owing to the late Province by the Education Office, Lower Canada, and therefore an Asset of the Province. *Vide Mr. Langton's Statement of Assets, item* 23; *P. A.*, 1867, *page* 3.

10. Building and Jury Fund, Lower Canada.....$116,475.51.

This Fund was established by 23 Vic., cap. 57, Consolidated Statutes Lower Canada, cap. 109, sec. 15. It was composed of certain fines and forfeitures, percentage on money collected by the Sheriffs, and certain other local revenues. The Fund was to be disbursed in keeping in repair the Court Houses, and in paying the Petit Jurors in Criminal Cases. Loans were made to this Fund from time to time by the Government of the Province of

Canada, on the credit of its income, until at Confederation these advances amounted to the above sum, which it owed to the late Province, and which, is therefore an Asset. *Vide P. A.*, 1867, *page* 3 ; *Mr. Langton's Statement of Assets, item* 24.

11. MUNICIPALITIES FUND, LOWER CANADA $484,241.33

This Fund was created by 18 Vic., cap. 2, secs. 1 and 2, an Act better known by the title of the Clergy Reserves Act. After a great deal of agitation in this country, on the subject of Religious Endowments, the Imperial Government, having in the first settlement of the country, set apart a certain portion of the lands of the Provinces of Upper Canada and Lower Canada for the support of a Protestant Clergy, granted the Legislature of Canada power to deal with this question, under certain limitations. Lower Canada, from its Ecclesiastical Associations, did not feel disposed to divert the lands from the purposes for which they had been set apart, but it had a great interest in relation to the Feudal tenure or Seigniural rights, which it wanted to do away with. So with a view to getting the co-operation of certain parties in Upper Canada, to do away with these rights, it agreed to join with those parties to settle the vexed question of the Clergy Reserves, which had been a political stalking horse for many years. The result of this was, that the Act of 1854 was passed, whereby it was enacted, after providing for the payment to the widows of certain clergymen, of certain pensions and stipends, making due provision for the vested rights of incumbents and all other parties, by setting apart a capital, the annual interest on which should be sufficient for all these purposes, that the residue of the monies already realized, and which should arise from all these Clergy lands situated in Upper Canada, should form a fund, to be called the "Upper Canada Municipalities Fund;" and in Lower Canada, the "Lower Canada Municipalities Fund." Lower Canada had the benefit of all the Clergy Lands situate in that Province, and Upper Canada to all those situate in it. And the Act provided that the Governor in Council should distribute the net proceeds of the fund, after paying all expenses, amongst the Municipalities according to population. The intention of the Act has never been changed. Ratepayers have been substituted for population, because the machinery for ascertaining the number of ratepayers annually, was in existence under our municipal system, but that of population could only be known by the census once in ten years. Judge Day says, in speaking about population, that it was provided the Municipalities Fund should be distributed according to the number of ratepayers, not according to popoulation. He is mistaken. The original Act plainly provides for a division according to population. But as you could not have a census taken every year, and as you had the ratepayers list made up every year, the mode of division was changed, and it was provided that the distribution should take place in Upper Canada each year, according to the number of ratepayers returned upon the assessment roll, under oath, by the clerks of the municipalities. But originally both the Common School money and the Clergy Reserves money, were distributed according to population.

This large indebtedness of the fund arose from advances made by the late Province, to several municipalities, on the credit of the fund, and Mr. Langton says that about $36,000 more, has been guaranteed by legislation to others, but has not been paid. It is also well to note that by 22 Vic., cap. 48, sec. 11, sub-sec. 3, Seigniorial Act of 1859, in providing for the abolition of the Seigniorial tenure in the Seigniories belonging to the Seminary of St. Sulpice, it was provided that for the relief of the *Censitaires*, $140,000 was to be made a direct charge on Consolidated Revenue Fund, and the residue of the value of the dues, after deducting the value of the rights of the Crown, was to be paid to the Seminary, out of the Lower Canada Municipalities fund (arising from the Clergy Reserves), after paying the charges on the fund under 20 Vic., cap. 44, and the Acts amending it; but if, at any time, the moneys in the hands of the Receiver-General belonging to this fund, were insufficient to pay six per cent. on such balance, advances were to be made out of Consolidated Revenue Fund, to be afterwards repaid out of the said fund. The balance of the value of the capital of these *Rentes* was $196,719.66. The Lower Canada Municipalities Fund never had, nor will it ever have, any means to pay this sum, or the interest on it at six per cent. Besides, Mr. Langton has included it in the capital of the Seigniors in making up the debt of the late Province of

Canada. I have, therefore, deducted it from the Lower Canada Municipalities Fund, and included it in the Seigniorial capital, under the Act of 1859 according to the subjoined statement.

Municipalities Fund, L. C., as per Public Accounts, 1867, part II., page 73		$184,244 33	
Less—Part of capital of Seigniories of St. Sulpice, charged in the debt of the late Province, as part of the capital of the Seigniories, under Act of 1859	$196,719 66		
" Interest thereon, from the 4th May, 1859, to 30th June, 1866	82,245 97		
" Interest from 30th June, 1866, to the 30th June, 1867	13,948 28		
		292,913 91	
			191,330 42

12. Lower Canada Superior Education Income Fund.

Advances made from time to time by the late Province to Superior Education L. C., on the credit of the Superior Education Fund, L. C.	$230,681 46	
Interest on Investments	3,600 00	
		$234,281 46

There are two education funds in Lower Canada, corresponding in their nature to the Upper Canada Grammar School Fund and the Upper Canada Grammar School Income Fund, namely, the Lower Canada Superior Education Fund, and the Lower Canada Superior Education Income Fund. In both cases the income funds spring directly from the funds themselves. The intention of the several Acts of Parliament under which they were established, was, that the funds themselves should remain intact and unimpaired, but that the income derived from the funds should be expended, in Upper Canada, in aid of the Upper Canada Grammar Schools, and in Lower Canada, in promotion of Superior Education. The Superior Education Fund in Lower Canada is composed, amongst other assets, of the capital of the estates in Lower Canada belonging to the late order of the Jesuits, and certain unexpended moneys remaining from the annual Common School grants. The Government retained the capital of the funds, and allowed interest on them with half-yearly rests, which it carried to the credit of the income funds. Superior Education in Lower Canada was always clamorous for money, and from time to time it persuaded the Government to make advances on the credit of its income fund; alleging, that in time the proceeds of its capital would enable it to pay off these advances. The language of the appropriations was, "*Advance to Superior Education, Lower Canada.*"

These advances accumulated, until at Confederation they amounted to $230,681.46.

Both in Upper Canada and Lower Canada, the Government saw fit to make some investments on account of the capital of these funds. On account of the Superior Education Fund Lower Canada, the Government invested in the City of Hamilton Debentures $10,000, and in the debentures of Huron and Bruce $19,400; and on account of the Grammar School Fund in Upper Canada $50,000, also in the City of Hamilton Debentures.

Mr. Langton, in making up the debt and assets of the late Province of Canada, which was officially communicated to the Governments of Ontario and Quebec on the 15th of September, 1868; (vide sessional papers of the Dominion, 1868-69, vol. 1, part 2, paper No. 8 page 7; and sessional papers of Ontario, 1869, vol. 2, paper No. 46, page 14,) properly stated Superior Education Fund, Lower Canada, and the Grammar School Fund, Upper Canada, as follows:—

Superior Education, L. C., Capital Fund	$377,251 53
Superannuated Teachers' Fund	2,700 88
Normal School Building Fund	61,761 84
	$441,714 25

Less—Debt owing to the Province by Superior Education Income Fund		$230,681 46	
" Investments—City of Hamilton Debentures	$10,000 00		
" " Huron and Bruce Debentures	19,400 00		
		29,400 00	
" Arrears of interest City of Hamilton Debentures		3,600 00	
" Legislative Grant		28,494 73	
" Advance Account		290 10	
			292,466 29
Balance charged in the debt of the late Province			$149,247 96
Upper Canada Grammar School Fund - - -		362,769.01	
Less—Investment in City of Hamilton Debentures -		50,000.00	
Balance charged in the debt of the late Province		$312,769.01	

It will be observed that by the foregoing statement of Superior Education Fund, Lower Canada, only $149.247.96 was charged in the debt of the late Province, as owing by the Province to Superior education—the advances to that fund by the Province, with the investments, reducing it to that amount. But Quebec took exception to this, and contended that these advances should be treated as an asset, under the fourth schedule to the B. N. A. Act, and that Superior Education, Lower Canada, should be a creditor of the Province for the total capital of the fund, less the investments. This was assented to by the Attorney-General, the effect of which was to increase the debt of the late Province by $230,681.16, the advances made; and also by $3,600.00, arrears of interest on the City of Hamilton Debentures, which, although not paid, had been credited to the fund. At the time this change was made, I thought it unjust to Ontario, and subsequent reflection has only confirmed me in that opinion. It was argued by Quebec, that these advances were made, not on the credit of, or to the capital of, Superior Education, Lower Canada, but on the credit of, and to the income fund, and that, therefore, they could not be charged against the fund itself. But the language of the statute, aside from the common sense of the transaction, is too explicit to admit of doubt. However, as this has been settled in the manner I have stated, it is useless to pursue the subject farther. The $234,281.46 is classed among the assets to be divided, and the debt of the late Province is to be increased by that amount.

Mr. LANGTON—The reason this item was restored to the assets was, that it was named in the fourth schedule to the B. N. A. Act. I pointed out at the time, that if it was restored to the assets, then it would have to be added to the debt of the late Province. It is like the item "Temiscomata advance account,"—is a debt owing to the late Province by Quebec, and in the division of the assets on the principle adopted by the arbitrators, will fall to Quebec, which can collect it from the income arising from the capital of Superior Education Fund, Lower Canada. Treating it in this way, increases the debt of the late Province by $234,281.46, and at the same time increases the assets falling to Quebec by that amount.

Mr. WOOD—Exactly so; and that is what I complain of. I contend that as the money was loaned to the fund itself and not to the income derived from the fund, it should have been made a set-off to the fund, and thereby relieved Ontario from contributing towards the payment of that sum added to the debt of the late Province.

13. REGISTRATION SERVICES, L. C.

This amount is owing to the late Province—$2,524.38.

This item is not found among the assets mentioned in the fourth schedule to the B. N. A. Act. In fact, it was not in existence in 1865, from the Public Accounts of which year, the schedule of assets was prepared. It is precisely analogous to others included in the schedule, being for advances to a special fund. However, as it is not mentioned in the schedule, and as it may be as well to adhere strictly to that schedule, I think on the

whole, it, with the item Revenue Inspectors, U. C., in Ontario's statement of debt and assets, also not appearing in schedule four, had better be struck out, leaving it with the Dominion to collect these debts, and credit their amount on the debt of the late Province. That will be keeping strictly within the statute, and remove all question as to jurisdiction over these items. (*Vide Mr. Langton's Statement of Assets, item p.* 36.)

Col. GRAY—What do you say in respect of the Quebec Turnpike Trust debentures?

Mr. WOOD—These debentures are an investment made on account of the Common School Fund, amounting to, principal, $58,000; and arrears of interest thereon, $29,580. The subject of the Trust, are certain roads near the city of Quebec. At one time the Trust was solvent and paid its liabilities; but interested parties from Lower Canada, in the House, induced the Legislature to couple with it, certain roads on the south side of the river, and so encumbered it that it is now hopelessly insolvent, and these debentures are supposed to be worthless. Indeed it would appear that such was its condition when Lower Canada induced the Government to make the investment in question, as no interest has ever been paid on the debentures. It is proposed that the amount of these debentures, with the accumulations of interest up to Confederation, shall be deducted from the Common School Fund, and held by the Dominion on account of that fund, and it has been so treated in the Public Accounts, and in the statement of the debt of the late Province of Canada, made up by the Auditor.

Mr. LANGTON—The two principal investments for Trust Funds, were the debentures of the Quebec Turnpike Trust, on account of the Common School Fund, $58,000; and the city of Hamilton debentures, on account of Superior Education, Lower Canada, $10,000; the Upper Canada Grammar School Fund, $50,000, and the Upper Canada Building Fund, $30,000, and $19,400 in Huron and Bruce debentures, on account of Superior Education, Lower Canada. It was the practice of the Government, whether it received the interest on these investments or not, to credit the funds with the interest, and if not paid, to charge the interest to the investments. Therefore, in adjusting these funds, the interest in arrear having been credited to the funds, must, along with the principal, be deducted from the capital of the funds. This has been done with respect of the city of Hamilton debentures, which will be handed over to the respective Provinces to which they belong. There is no difficulty in thus dealing with these debentures, as they are not mentioned in the fourth schedule to the B. N. A. Act. But this is not the case in respect of the Quebec Turnpike Trust debentures. These are mentioned in the fourth schedule, as an asset of the late Province to be divided. I think these must be treated as an offset to the Common School Fund.

Mr. WOOD—They have been so dealt with, as you will see by reference to part 3, page 70—Public Accounts of 1869.

Col. GRAY—If Quebec were represented here, probably some agreement might be come to as to the mode of dealing with these debentures, but as we are proceeding *exparte* we must confine ourselves strictly within the terms of the reference.

Mr. LANGTON—If you include the Quebec Turnpike Trust debentures in the assets, it would seem logically to follow that you ought also to include the city of Hamilton debentures; either both should be in, or both left out.

Mr. WOOD—I do not feel any difficulty in disposing of these debentures, as I shall be able to show when I come to speak of the Common School Fund. In the meantime I will simply say that I propose to make them an offset from the Common School Fund and let them remain with the Dominion along with the fund, and whatever is realized from them (if any thing) to go to the credit of the fund, and to be distributed between the two Provinces, as shall be provided with respect to the annual income derived from the Common School Fund.

Mr. MACPHERSON—Was this investment made under authority of any special Act of the Legislature?

Mr. LANGTON—No. It was the arbitrary act of the Government.

Mr. WOOD—I do not think it expedient to pursue this matter further just now, as

it will come up again when we come to the Common School Fund, and arrears outstanding on Common School lands.

14. Seignorial Fund under Act 1854.

Seigniorial capital arising from the capitalization at 6 per cent. of the average income of the Crown Seigniory of Lauzon, for five years preceding the passing of the Act, being an annual average sum of.....	12,951 65	215,860 85	
Seigniorial capital arising from the capitalization of the annual income from Tavern and other licenses, L. C., based on the average annual revenue of five years preceding the passing of the Act, being the sum of.....	37,115 01	618,583 55	
	$50,066 66	$834,444 40	
Direct charge on consolidated revenue for which U. C. has an equivalent compensation, but which the Auditor did not bring into the Public Accounts till in 1866.....		600,000 00	
Deficiency of above local revenues to pay 6 per cent. on capital, 834,444 40 during the period from 1854 to 1867		80,201 00	
Total.....			$1,514,645 40

These items require explanation. The Seigniory of Lauzon was a Crown Seigniory, and its revenues belonged to the whole Province of Canada just as much as any revenues derived from Crown lands in Upper Canada formed part of the general income of the whole country, irrespective of the fact that they were derived from lands situate in Upper Canada..

Mr. Langton—You are mistaken. It was not a Crown Seigniory.

Mr. Wood—I am not mistaken. It was in fact a Crown Seigniory. Long before the Union in 1841 the revenues derived from it went into the general exchequer of Lower Canada; and the Union Act of 1840 says that all duties, rates, and revenues, which were payable to the respective Provinces at the Union, should be the duties, rates, and revenues of the united Provinces, forming the late Province of Canada, subject to the charges thereon previously made by the Legislatures of the respective Provinces.

It is quite true that the Seigniory of Lauzon formerly belonged to a private individual, Sir John Caldwell, at one time the Receiver General of Lower Canada, who became a defaulter to the Crown to a large amount; and in making up his defalcations the Seigniory of Lauzon was estreated and became Crown property long prior to the Union in 1841. No doubt in law, and in fact, it was as much a part of the Crown domain as were any Crown lands in Upper Canada or Lower Canada, and the revenues arising from it, as much Crown revenues as any dollar collected on the sale of Crown lands.

Mr. Langton—Upper Canada consented to these revenues being considered local and to belong to Lower Canada.

Mr. Wood—That is quite true. Upper Canada was perfectly willing to make this concession, if the means provided by the Seigniorial Act of 1854 would put an end to the troublesome question of feudal rights in Lower Canada. I do not propose to go behind the Act which treats these revenues as local, and as belonging to Lower Canada. But I mention it as being a large item of revenue given up by Upper Canada, for which there was no pretence of giving any equivalent.

In respect of tavern and other licenses forming the residue of the local sources of revenue, I may say there is no controversy about these belonging to Lower Canada. The Acts, 8 V., c. 72, and 16 V., c. 184, with other Acts put this beyond question.

I will now proceed to the examination of the Seigniorial Act of 1854, 18 V., c. 3, with the view of demonstrating that Lower Canada must be charged in its local expenditure with the three sums named under the head of "*Seigniorial Fund under Act of* 1854." As a foundation for the argument, I desire to present on this point, I refer specially to the following sections of the Act.

"XVII. The emoluments and disbursements of the Commissioners who shall be appointed under this Act, with the expenses to be incurred under the same, shall be paid out of the Consolidated Revenue Fund of this Province by warrant of the Governor: and a sum, not exceeding in the whole what shall remain of the amount hereinafter limited, after deducting therefrom the said emoluments, disbursements and expenses, may likewise be paid out of the said fund for the purposes of this Act; and it shall be lawful for the Governor in Council to cause any sum or sums, not exceeding in the whole the sum required for defraying the expenditure authorized by this Act, to be raised by debentures to be issued on the credit of the said Consolidated Revenue Fund, in such form, bearing such rate of interest, and the principal and interest whereof, shall be payable out of the said fund at such times and places, as the Governor in Council shall think most advantageous for the public interest; and the moneys so raised as aforesaid shall make part of the said Consolidated Revenue Fund of this Province: Provided always, that the total amount of moneys to be paid, whether in money or debentures, under this Act, shall not exceed by more than one hundred and fifty thousand pounds, the sum of which the average yearly proceeds of the other sources of revenue hereinafter mentioned (upon an average of the last five years), would be the yearly interest at six per cent. per annum added to the value of the Crown's rights in the Seigniories affected by this Act."

I will just observe in passing, that all Seigniories are included in this Act except those which are specially excepted in section twenty-five. The section which I have read provides that the Government shall first pay the emoluments, disbursements and expenses of the Commissioners, and apply to the extinguishment of the Seigniorial rights and dues the balance of the fund created by the Act. That fund consisted of two branches. The first branch was a charge on Consolidated Revenue Fund, equal to the revenues arising from the Seigniory of Lauzon, and tavern and other licenses, capitalized at six per cent. per annum, upon the average produce thereof of the five preceding years; which produced a capital of $834,144.40; and the other branch consisted of a direct charge on Consolidated Revenue Fund, to an extent not exceeding $600,000. For both these sums Upper Canada was to receive indemnity, or an equivalent: in respect of the first branch, by the payment into the Consolidated Revenue Fund, of the local revenues I have mentioned, with an equivalent sum to Upper Canada, for anything these revenues should fall short of the estimated annual receipts; and in respect of the second branch, by setting apart for local purposes in Upper Canada an equivalent sum. This will appear perfectly clear from section eighteen of the Act named, immediately following the section I have just read to you:

"XVIII. The moneys arising from the following sources of revenue, shall be and are hereby specially appropriated, to make good to the Consolidated Revenue Fund, the amount which may be taken out of the same for the purpose of paying the sums charged upon it under the next preceding section, that is to say:—

"All moneys arising from the right of the Crown from 'droits de Quint,' and other dues in or upon the Seigniories in which the Crown is Seignior dominant, and which are to be commuted by this Act as such value shall be fixed by the schedules of the said Seigniories respectively, and all arrears of such dues:

"All revenues arising from the Seigniory of Lauzon, or from the sale of any part of the said Seigniory, which may hereafter be sold, and all arrears of such revenues:

"All revenues arising from auction duties and auctioneers' licenses in Lower Canada:

"All monies arising in Lower Canada from licenses to sell spirituous, vinous, or fermented liquors by retail, in places other than places of public entertainment, commonly called shop or store licenses:

"All monies which shall arise from tavern licenses in Lower Canada after the pres

ent charges on that fund shall have been paid off, except, however, such portion of that fund as shall be levied in the Townships.

"And separate accounts shall be kept of all monies arising from the sources of revenue aforesaid, and of the monies disbursed under this Act, allowing interest on both sides, at the then current rate on Provincial debentures, to the end that if the sums payable out of the Consolidated Revenue Fund, under this Act, shall exceed in the whole the total amount of the sums arising from the sources of revenue so specially appropriated, and any interest allowed thereon as aforesaid, a sum equal to such excess, may and shall be set apart to be appropriated by Parliament to some local purpose or purposes in Upper Canada."

I call particular attention to the last paragraph of the above section. The language is too explicit to admit of any doubt. In so far as the local revenues fell short of paying six per cent on their estimated capital, to that extent, Upper Canada was to have an equivalent sum set apart for its local purposes; nay, more, for every dollar drawn from the Consolidated Revenue Fund, and not replaced by these local revenues, Upper Canada was to have a full equivalent, in a like sum being set apart for its local purposes. Let this fact be thoroughly understood, and it will very much facilitate the comprehending of the arguments I have to offer in support of the conclusion at which I have arrived, that Lower Canada should be charged, as part of its local expenditure which now forms part of the debt of the late Province of Canada under the Seigniorial legislation of 1854, with the sum of $1,514,645,10.

It has been the popular notion that Upper Canada was entitled to an equivalent for only $600,000. That is a mistake. The statute provides that Upper Canada shall have an equivalent for all that was drawn out of the Consolidated Revenue Fund, over and above all the capital actually produced by the actual net receipts from the local revenues, specially appropriated to make good to the Consolidated Revenue Fund, the sums drawn out of it, based on these revenues. In other words, if the local revenues fell short of the estimate, to that extent Upper Canada was to have an equivalent. If they were diverted to other objects, or reverted to Lower Canada and failed altogether to afford that indemnity to Upper Canada, to which, in the language of the statute, they were "*specially appropriated*," then Upper Canada, by the terms of the Act, was to have set apart for local purposes in that section of the late Province, a sum equal to the entire charge made on the Consolidated Revenue Fund, by the Seigniorial Act of 1854—that is to say, the sums following:

Estimated capital of local revenues, ...	$834,444,10
Charge made on Consolidated Revenue Fund over and above the estimated capital of the local revenues, ...	600,000,00.
Deficiency of local revenues to pay six per cent on their estimated capital, during the period from 1854, to the 1st July, 1867..	80,201,00
Total.....	$1,514,645,40.

Had the letter and intent of the Act been carried out, these sums as capital, with the accumulations of interest on the $600,000, would have been carried to the credit of the Upper Canada Building Fund in making up the Public Accounts of the late Province, to the first July, 1867. And as the whole matter was in the hands of the Auditor, and as it was his duty to make up these complicated accounts according to the statute, I can hardly excuse him for not doing what it was so plainly his duty to do according to law.

Mr. Langton.—The Seigniorial fund that was created in 1854, was balanced up in 1859, and was not at that time used up. There was a balance of $697,824,97 left; so that you cannot say there was more spent than was produced and paid into the Consolidated Revenue Fund from these local revenues. The fund was balanced before the expenditure reached their estimated capital, $834,444,40. A great deal more must have been expended to have exhausted the estimated capital of these local revenues in 1859, when the second general Seigniorial Act was passed, which did away with the fund of 1854, and entirely changed the ground of indemnity to Upper Canada.

Mr. Wood.—It is quite true the fund was not exhausted by the sum named by Mr.

Langton, but I ask what difference does that make? By the Seigniorial Act of 1855, the provisions of the Act of 1854, were somewhat modified.

A Seigniorial fund account was opened, and to the credit of this fund was placed the estimated capital of the local revenues	$834,444 40
And a direct charge on Consolidated Revenue Fund of	600,000 00
Total.....	$1,434,444 40

And it cannot admit of argument, that a special account should at the same time have been opened for the equivalent to Upper Canada, to the credit of which, should have been placed as capital the sum of $600,000, and from year to year a sum equal to the deficiencies of the local revenues, to pay the interest on their estimated capital, $834,444.40. And as interest was allowed with half-yearly rests at six per cent. on the Seigniorial fund set apart as I have mentioned, so in like manner should have been allowed interest at the same rate with half-yearly rests on the equivalent and correlative fund to which Upper Canada was entitled.

Permit me here again to call your attention to section seventeen of the Seigniorial Act of 1854, which provides that these sources of revenue on an average of the annual proceeds of the last five years, should be capitalized at six per cent., and to the extent of that capital, a charge should be made on the Consolidated Revenue Fund, which as I have already shown, amounted to a capital of $834,444.40, and in addition to this, liberty was given further to draw on the Consolidated Revenue Fund, to an extent not exceeding $600,000. For the latter of these sums Upper Canada has, as has been repeatedly stated, received an equivalent in its Building Fund, and for the former it was fully indemnified by the "local urces of revenue specially appropriated to make good to the Consolidated Revenue Fund," the amount which might be taken out of the same for the purpose of paying away a sum when it was capitalized value of these annual local revenues. Especially was this the fact equal to the expressly provided "that separate accounts of these local revenues should be kept, counting interest on both sides, to the end that, if the sums payable out of the Consolidated Revenue Fund, under this Act, shall exceed in the whole the total amount of the sums arising from the sources of revenue so appropriated, and any interest allowed thereon as aforesaid, a sum equal to such excess, may and shall be set apart to be appropriated by Parliament for some local purpose or purposes in Upper Canada."

In the Act to amend the Seigniorial Act of 1854, 18th Vic., cap. 103, passed five months after the Act of 1854, the right to full indemnity to Upper Canada, for the first branch of the fund, and an exact equivalent for the other, is reiterated in the latter part of sec. three, in these words: "Provided always that the sum paid by the Receiver General as interest, under this section, shall be taken into account in ascertaining the sum to which Upper Canada, may be entitled for local purposes under section nineteen (eighteen) of the said Act." The principle is again recognized in the 20th section of the Seigniorial Act of 1859, 22 Vic., cap. 18, the last general Act on the subject of the seigniorial tenures or feudal rights in Lower Canada, in which the following language is used:

"A sum of money equal to that which under the foregoing provisions, will be pay-
"able yearly to the Seigniors in Lower Canada, out of the Provincial funds, over and
"above the amount payable to them out of the fund for the relief of the *Cens baires*, under
"the Seigniorial Act of 1854—shall be payable yearly out of the Consolidated Revenue
"Fund of this Province, to the credit of the Upper Canada Municipal Loan Fund, in
"reduction of the advances that have been or may be made from time to time, from Pro-
"vincial Funds, on account of the said fund."

* * * * * * * *

"The sums payable under this section, shall be in addition to the sum to be appro-
"priated for local purposes in Upper Canada, under the Seigniorial Act of 1854."

It is perfectly clear, therefore, that the statute law provided ample indemnity to Upper Canada, against any taxation or contribution to make good to the Consolidated Revenue Fund, any portion of the sum of $834,444,40, charged upon it, as I have already explained, by the special appropriation of the local revenues enumerated, to cover the annual in-

terest on that sum, and by providing, if they failed to do so, to the extent of the deficit, Upper Canada should have set apart an equal sum to be appropriated by Parliament for its local purposes. If the Auditor, in making up these several accounts, after Confederation had taken place, has not acted upon the various statutes in accordance with their letter, spirit and obvious intendment, that is no reason why the arbitrators should not look into these Acts of Parliament, and deal with these questions, I will not say according to equity and good conscience, for that is asking more than I have any reason to expect will be granted to Upper Canada, but I will say in accordance with the conclusions of law and fact inevitably flowing from their fair and legitimate interpretation and construction. This, then, was the solemn compact made between Upper Canada and Lower Canada, that a full indemnity from and against taxation should be given to Upper Canada by the annual revenues derived from Lower Canada local sources; and in so far as they should fall short of that indemnity, a sum equal to the deficit, should "be set apart to be appropriated by Parliament to some local purpose or purposes in Upper Canada." This agreement is more binding than any mere deed between the parties could have been. It was in fact, a special agreement between the high contracting parties, rendered sure, certain and lasting by being embodied in a solemn Act of the Legislature. The language used is peculiar, "specially appropriated to make good to the Consolidated Revenue Fund." A phrase which is not used in any other appropriation. The word "*special*" means that it shall be especially limited to that object and to that alone.

At this stage of the proceedings, the arbitrators adjourned to the following day, Friday.

FRIDAY, August 26, 1870.

Hon. Mr. WOOD resumed his argument. He said: I am speaking about the item of the capital of the local sources of revenue derived from the Seigniory of Lauzon, auctioneers duties, tavern and other licenses. And I will say that, if it had not been for the change which took place on the 1st July, 1867, in reference to this matter, it would not have been worth while to bring up the question at all, for the sake of the mere difference between the interest on the capital and the revenue actually received; because the time would no doubt have come when these local sources of revenue would have produced enough to meet the full six per cent. upon their estimated value, and to make good any former deficiencies. From the statement furnished me by the Auditor, latterly, I see they were increasing, and the time would have come when the accumulation of the excess would have wiped out the deficits of past years; and not only that, but would have gradually entrenched upon the capital, so that in course of time these local sources of revenue might have wiped out the principal, and liberated these revenues altogether from any further contribution to the Consolidated Revenue Fund of the Province. But all this was changed on the 1st of July, 1867; and the Dominion Auditor, with the sanction of the Government, very properly made provision for this capital by charging it in as part of the debt of the late Province. As these local sources of revenue were withdrawn by the B. N. A. Act, designedly or undesignedly, and as individuals were interested in the payment of the interest on the capital, with whom good faith must be kept, and as Upper Canada has not been re-couped for these local sources of revenue, I have charged their estimated capital in with the Seigniorial capital, and it becomes part of the local debt of Quebec.

I have said, and I repeat it, that these local revenues were pledged to this particular purpose, and that it was agreed between the members representing the people in Upper Canada and Lower Canada in the House, that this arrangement should take place, and that it should be, as it was, sanctioned by an Act of the Legislature, and become irrevocably binding on the two sections of the Province; and that, therefore, these local revenues were sacredly set apart for the payment of the interest on their estimated capital. I, therefore, repeat that it is not competent for any power to set aside an agreement so made and so sanctioned, without the consent of the parties interested. It was not competent for the late Province of Canada to do it. It is not competent for the Parliament of the Dominion to do it. It was not competent for the Imperial Parliament to do it. Nor is it in accordance with constitutional British practice to interfere with private arrangements of this kind, without giving full compensation to the parties thereby affected.

But it is argued that all this is contrary to section 92, sub-sec. 9, and section 102 and 109, of the B. N. A. Act, which are as follows:

"92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:

"9. Shop, saloon, tavern, auctioneer and other licenses, in order to the raising of a Revenue for Provincial, Local, or Municipal purposes.

"102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick, before, and at the Union, had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada, in the manner and subject to the charges in this Act provided."

"109. All lands, mines, minerals, and royalties, belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same."

Take tavern licenses. Does Sec. 92, sub-sec. 9, affect the special appropriations made of the income or revenue arising from them? If so, it must affect all such special appropriations equally and alike. No one can say it affects simply the special appropriation made in the interest of Upper Canada, in the eighteenth section of the Seigniorial Act of 1854, and no other special appropriations. I repeat, if it affects one it affects all equally and alike. By 8 V., c. 72, the proceeds of the tavern licenses in Upper Canada and Lower Canada, were given to the districts and other municipal divisions of each Province, and those of Upper Canada were charged with the payment of $160,000 re[illegible] losses in Upper Canada, while those of Lower Canada, were to be paid over to the [illegible]ers or municipalities in which they were collected. By 13 and 14 Vic., c. 94, the proceeds of tavern licenses in the District of Montreal, were specially appropriated to the fund established for building the Court House at Montreal.

By 14 and 15 Vic., c. 63, the proceeds of the tavern licenses arising in the District of Ottawa, were specially appropriated to the special fund established for building the Court House at Aylmer.

By 18 Vic., c. 3, sec. 18, Seigniorial Act, 1854, all monies arising from tavern licenses in Lower Canada, after the charges then existing on that fund, were paid off (being the charges above particularly mentioned), except, however, such portion of that fund as should be levied in the townships, were specially appropriated to make good, to the Consolidated Revenue Fund, the sum by that Act authorized to be drawn out of it, for the sole purpose, and with the intent and object of thereby indemnifying Upper Canada against any taxation, contribution, or liability on account thereof.

Here we have several special appropriations of the income derived from tavern licenses in Lower Canada; and it is not arguable that every one of them is not now as binding as it was on the day it was made. Surely no one will say that it was competent for any Parliament to pass an Act diverting to other objects, or worse still, giving back to Lower Canada the income so specially appropriated by Act of Parliament in the interest of Lower Canada, and for which it received the full value, and thereby destroy the vested rights of individuals, institutions and communities, acquired in good faith under the solemn sanction of an Act of the Legislature of the country.

To argue that sec. 92, sub-sec. 9, B. N. A. Act, relieves the tavern licenses of Lower Canada from the charge made on them by the special appropriation made of them by the eighteenth section of the Seigniorial Act of 1854, is to argue that it also relieves them from pre-existing charges made by the several Acts to which I have referred. The section referred to in its terms requires no such construction. Its language, taken by itself, or in connection with the context, is not susceptible of such an interpretation. There is no implication to be derived from the clause at all justifying such a conclusion; and, to crown all, to give such a meaning to it, would do violence to the words of the clause; be a gross

invasion of vested rights; a breach of one of the most solemn compacts men can make, and a violation of good faith, and a piece of flagrant injustice to Upper Canada.

Of the licenses referred to in the eighteenth section of the Seigniorial Act, 1854, and in sec. 92, sub-sec. 9, B. N. A. Act, I have specially mentioned only the tavern licenses, as most of the income provided by the former Act is derived from this source. The arguments and observations apply to duties on auction sales, auctioneers licenses, and to licenses to sell spirituous, vinous, and fermented liquors by retail, in places other than places of public entertainment, called shop or store licenses, equally with tavern licenses. No cause of complaint exists as respects the ownership of these licenses. Upper Canada, by 16 Vic., cap. 184, had transferred to it its licenses, and therefore Lower Canada was properly entitled to its licenses. Sec. 92, sub-sec. 9, B. N. A. Act simply gives the Legislature of each Province legislative control over the subject, with power to impose duties for raising a revenue for provincial, local or municipal purposes. It does not interfere with charges already existing, by special appropriation on the income or revenue derived from them.

As to the income derived from the Seigniory of Lauzon: this was a Crown Seigniory, and in fact belonged as much to Upper Canada as to Lower Canada. But I assume it was a local property, and belonged exclusively to Lower Canada; for such was the assumption of the Legislature in passing the Seigniorial Act of 1854. In all I have to say I confine my observations strictly within the statute law of the land. It is admitted that, but for the sections of the B. N. A. Act I have quoted, the income arising from the Seigniory of Lauzon could not be diverted from the purpose to which it was devoted, that is, an indemnity to Upper Canada against any contribution or liability on account of the charge, by reason of such income, made on the Consolidated Revenue Fund, and of the debt thereby added to the late Province. It is also admitted that in equity and good conscience, even though the B. N. A. Act did divert this income from the purpose to which it had been solemnly pledged by agreement between Upper Canada and Lower Canada, homologated by Act of Parliament; still, in "the division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada," Ontario should have compensation for the increase of the debt of the late Province thereby produced. But I make no appeal to equity or good conscience. I rely exclusively on a correct construction of the several Acts of Parliament relating to the subject.

I will next notice sec. 102 of the B. N. A. Act. It is contended that this section gives the revenues arising from the Seigniory of Lauzon, and licenses, to the common exchequer of the Dominion. If it does, then the Dominion must take it encumbered with the charges made on it by the Seigniorial Act, 1854, or which would, in so far as Upper Canada is concerned, be the same thing, the Dominion must, under sec. 111 of the B. N. A. Act, which is as follows:—"Canada shall be liable for the debts and liabilities of each Province existing at the Union"—be liable over to Ontario for the additional debt thereby imposed on it, or assume the payment of so much of the debt of the late Province: for the liability and obligation of saving Upper Canada harmless and fully indemnified against this additional debt, belonged to and rested with the late Province of Canada, and if the Dominion succeeds to these revenues, it must also succeed to the liabilities which that succession to the revenues carries along with it. But I think it quite clear that such was not the intention or meaning of the Imperial Parliament, and that the language of the section will not, on a careful consideration of the whole question, when read in connection with the Seigniorial Act of 1854, admit of such a construction. But had the Legislature of the late Province any power of appropriation over these tavern licenses and the other sources of revenue? Clearly not; for before the special appropriation made by the Seigniorial Act of 1854, they belonged to Lower Canada, and were at the instance of Lower Canada appropriated for its benefit, in its interest, and for which it received more than the full value thereof. They were not general revenues, such as are contemplated by the 102 sec. B. N. A. Act; and they are no more within the perview of that section than is the Marriage License Fund of Lower Canada, or the Upper Canada Building Fund, the Lower Canada Superior Education Fund, the Upper Canada Grammar School Fund; the Common School Fund, the Municipalities Fund, Upper Canada; the Municipalities Fund, Lower Canada; the Building and Jury Fund, Lower Canada, or any other Special or Trust Fund established

by Act of the Legislature by special appropriation. It is just as rational and reasonable to say the section in question draws into the Consolidated Fund of the Dominion the revenues arising from all these special funds, as to say that it comprehends the special local revenues arising from the Seigniory of Lauzon, auction duties, tavern and other licenses.

But it is further contended that, under sec. 109 of the B. N. A. Act, the revenue arising from the Seigniory of Lauzon, with the Seigniory itself, reverted to Quebec. To give such a construction to that section would work a most grievous wrong to Upper Canada. I will not characterize such a proposition in the language it deserves. So to interpret the section, would sweep away many Acts from the Statute book. It would abolish the Municipalities Fund in both Upper Canada and Lower Canada. It would do away with the the Upper Canada Grammar School Fund. It would put an end to the Upper Canada Land Improvement Fund. It would wipe out the Common School Lands Act. In short, it would strike out from the Statutes all special Legislation in respect of special funds relating to the lands, mines, minerals and royalties in the late Province of Canada. For in all these cases the language used in setting apart the lands or the moneys arising from them to particular purposes, is almost identical with that employed in the eighteenth section of the Seigniorial Act, 1854.

In the case of the Clergy Reserves, the language used is:—18 Vic., cap. 2.

"1. The moneys arising from the Clergy Reserves in Upper Canada shall continue to form a separate Fund, which shall be called the Upper Canada Municipalities Fund, and the moneys arising from the Clergy Reserves in Lower Canada shall continue to form a separate Fund, which shall be called the Lower Canada Municipalities Fund."

* * * * * * *

"And the monies forming these Funds, shall be paid into the hands of the Receiver General, and shall be by him applied to the purposes hereinafter mentioned under the authority of this Act, or any general or special order or orders to be made by the Governor in Council."

In the case of the Grammar School lands, the language used is as follows, 2 Vic. c. 10:

"IV. That it shall and may be lawful for the Lieutenant-Governor, by and with the advice of the Executive Council, to set apart two hundred and fifty thousand acres of the waste lands of the Crown in this Province, to be sold in like manner as other Crown lands, at a price not less than ten shillings per acre, and the proceeds thereof paid into the hands of the Receiver-General, from time to time, to be appropriated in such manner, and for the Grammar Schools, as hereinbefore provided."

The following language is employed with respect of the U. C. Land Improvement Fund: Con. Stats. Canada, c. 26.

"7. The Governor in Council may reserve out of the proceeds of School lands, in any county, a sum not exceeding one fourth of such proceeds, and out of the proceeds of unappropriated Crown Lands in any county, a sum not exceeding one-fifth thereof, such sums to be funds for public improvements within the county, and to be expended under the direction of the Governor in Council."

To the same effect is the language of the Statute in establishing the Common School Fund. Con. Stats. Canada, c. 26:

"1. The Commissioner of Crown lands having, under the provisions of the Act 12 V. c. 200, and under the direction of the Governor in Council, set apart and appropriated one million acres of public lands for Common school purposes, and portions thereof having been disposed of under the said authority, the remainder shall be disposed of by the Commissioner on such terms and conditions as may by the Governor in Council be approved, and the money arising from the sale or disposal of any portion of the said lands shall remain or be invested and applied towards creating a capital sum sufficient, at the rate of six per cent. per annum interest, to produce a clear sum of four hundred thousand dollars per annum, and such capital and the income therefrom shall form the Common School Fund."

Now let the foregoing language be compared with that found in the eighteenth section of the Seigniorial Act, 1854, 18 V. c. 3, sec. 18.

"The monies arising from the following sources of revenue shall be and are hereby specially appropriated to make good to the said Consolidated Revenue Fund, the amount which may be taken out of the same, for the purpose of paying the sums charged upon it under the next preceding section, that is to say:

"All monies arising from the revenues of the Seigniory of Lauzon, or from the sale of any part of the said Seigniory which may hereafter be sold, and all arrears of such revenue."

This comparison must convince any one that I do not overstate the case, when I say that if it be held that sec. 109 of the B. N. A. Act, takes away from Upper Canada its indemnity against the charge made on the Consolidated Revenue Fund, under sec. 17 of the Seigniorial Act, 1854, for which no equivalent has been given, and gives the revenues "specially appropriated and set apart" as an indemnity to Upper Canada, either to the Dominion or to Lower Canada, so also must it be held to sweep away all the special appropriations to which I have referred. It is no answer to say that the other special funds, to which I have alluded, are trust funds, and are therefore protected by the latter part of the section, "Subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same." For it may be doubted, if, technically speaking, any of these special appropriations formed proper trusts. But if they did, that giving the indemnity to Upper Canada was eminently such a trust. It clearly comes within the meaning of the clause "and to any interest other than that of the Province in the same." Upper Canada and Lower Canada were recognized in the Seigniorial Acts of 1854,-1855, and in that of 1859, as distinct communities, having separate interests, although, forming, technically, but one Province. Indeed, this distinction runs through the whole course of Legislation from 1841 down to 1867. It was recognized in the Rebellion Losses Act of Upper Canada, 8 Vic., cap. 72, in which it was provided that the moneys arising from tavern licenses, both in Upper and Lower Canada, should be appropriated to the uses of Districts and Municipal Divisions in which they were collected; but in the case of Upper Canada, $160,000 Rebellion losses, were made a first charge on its tavern licenses. It was recognized in the first Rebellion Losses Act of Lower Canada, 9 Vic., cap. 65, by which the Marriage License Fund in Lower Canada was charged with the payment of the debentures authorized to be issued, and the proceeds of the Marriage License Fund in Upper Canada were appropriated to the maintenance of certain charitable institutions in Upper Canada. It was again recognized in the Clergy Reserve Act, 18 Vic., cap. 2, by which, under certain limitations, the proceeds of the Clergy Reserve lands in Lower Canada were appropriated to local purposes in that Province; and the proceeds of those in Upper Canada to local objects in Upper Canada. It was again recognized in the Acts 13 and 14 V. c. 68, and 20 V. c. 8, establishing the Upper Canada Building Fund. It has been recognized in every annual appropriation Act from the Re-union in 1841, to Confederation in 1867. In short, the statute books are full of Acts recognizing a broad distinction in interest, not only between Upper Canada and Lower Canada, but also between Upper Canada and Lower Canada as separate and distinct communities, and the Province of Canada at large.

It is not, therefore, an assertion, but a fact proved, that Upper Canada had an interest other than that of being part of the Province of Canada, in the Seigniory of Lauzon—an interest as distinct and clear as an individual person would or could have, had a like special appropriation been made by the Legislature to indemnify him against loss or liability under similar circumstances.

But I do not rest the case alone on the foregoing considerations, although, as I think, perfectly conclusive. If the consideration for the charge of $834,444 40 on the Consolidated Revenue Fund, be taken away from Upper Canada, then must this sum be taken away from Lower Canada, that is, be deducted from the capital of the Seigniories, and from the debt of the late Province; and Lower Canada must make good the amount to the individuals or institutions interested, from its own proper revenues; and it may well do so, for it will have the identical resources of revenue back in its own hands upon the special setting apart and the special appropriation of which, it got the $834,444 40.

If it be urged that it would not do to break faith with the individuals and institutions directly interested in this fund, my reply is, neither will it do to break faith with the people of Upper Canada. It is as iniquitous in one case as in the other. I propose to keep good faith with both, and to strictly carry out the letter, spirit, and intent of the Seigniorial Act, 1854, in all its parts. But really, it seems to me no one can seriously contend that any part of any of the Acts of which mention has been made, has been repealed by the B. N. A. Act. On the contrary, it must be obvious to all who are not disposed to be wilfully blind, that all these Acts in all their parts, are in full force under the authority of the B. N. A. Act itself, if such authority were needed; for the 129th section of the Act says:

"129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the Union had not been made; subject nevertheless, (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act."

The B. N. A. Act has not, as I have shown, directly or indirectly in express terms or by necessary implication superceded, repealed, abolishsd, or altered the Seigniorial Act of 1854, or any part of it. It therefore remains in full force.

The local revenues which I am discussing, did not pass to the Dominion under sec. 102, B. N. A. Act, for the Legislature of Canada, before and at the Union, had no power to divert these revenues from the purpose to which that same Legislature had specially appropriated them, without a gross breach of faith to Upper Canada. If, however, the Dominion takes these revenues, it must take along with them $834,444,40 of the debt of the late Province, created in consideration of their transfer to the Consolidated Revenue Fund of the late Province. For the reasons given, these revenues do not under sec. 92, sub-sec. 9, and sec. 109 B. N. A. Act pass to the Province of Quebec, freed from the charge imposed on them by the Seigniorial Act of 1854. I do not object to Quebec taking them, as it has actually done for three years past, and will continue to do in the future, as that seems to be the normal state or fate of these revenues by all parties; but in dividing and adjusting the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada, the additional debt thereby thrown on Ontario, must be taken into consideration by the Arbitrators. This may be done by Quebec assuming bodily $834,444,40 of the excess of debt before any division on the principle adopted by the Arbitrators takes place; or it may be done by adding an equivalent sum to the Upper Canada Building Fund, and increasing the debt of the late Province, by that amount; or by charging the same into the debts created by local expenditure in Quebec, which I think is the proper and logical mode of treating it, and is certainly less onerous to Quebec, than it would be to require it to assume the payment of a debt created for it, and the proceeds of which it received and expended on a purely local object within its own Province. I have, therefore, charged it into the local debts of Quebec.

Short paid to 1867. ....$80,201 00

The Official return from the Auditor's Office, to be found among the Sessional papers of 1869, paper No. 64, shows that the revenues set apart to indemnify Upper Canada for the capital charged on the Consolidated Revenue Fund, fell short from 1854 to 1867, on an average by $4,395,55 annually, or by $2,197,76 half yearly. As the interest on the capital of $834,444,40 was carried to the credit of the Seigniorial Fund, every half year, the principal and interest compounded semi-annually on this half-yearly deficit for twenty-five half-years, amounts to $80,201, which I charge in the local debt of Quebec under the express authority of the Eighteenth Section of the Seigniorial Act, 1854, and the latter part of the Third Section of the Seigniorial Act, 1855, and the Twentieth Section of the Seigniorial Act, 1859.

14. Charges on Consolidated Revenue under Seigniorial Act of 1859 as under—

Capital of General Seigniories	$2,776,380,36	
Add Seigniories of St. Sulpice	336,719,66	
Add Lower Canada Sup. Ed. (Jesuit's Estate)	92,583,83	
	$3,205,683,85	
Less Balance Fund, 1854	697,824,97	
		$2,507,858,88

This item has been already fully explained, and I do not think I would be justified in dwelling upon it any longer. The results of the calculations from which the above figures are taken, will be found in the Public Accounts for 1867, part II., page 91.

15. Indemnity to the Townships—$756,710,00. This item arises out of the Seigniorial legislation of 1859, and is fully explained in the Seigniorial Act of 1859, and the Public Accounts for 1867, Part II., page 91. As Upper Canada under the Act gets no equivalent or indemnity for this large sum, it requires no further observations from me.

Mr. Langton interrupting Mr. Wood, said—

Mr. Wood's argument about the tavern licenses and Seigniory of Lauzon, raises three points.

I. That whether these revenues were properly valued or not at $831,444 40, as the revenues were now passed to Quebec, that portion of the $3,113,100 02 due to the seigniors, which ought to have been covered by that amount, becomes a debt contracted for local purposes and ought to be so taken account of.

II. That these revenues were found not to have been worth the amount at which they were valued, and that the difference ought similarly to be counted as a debt created for local purposes.

III. In the course of his argument upon these two points, he quoted the eighteenth section of the Act, in order to show that special provision was made that Upper Canada should get compensation for everything beyond what the revenues really yielded, and he states that the account had not been properly kept, and that it was the duty of the arbitrators to revise it for the purpose of their own award.

Mr. Wood: I wish to correct that. If I said that the account was not properly kept, I was not properly understood. I said that in making up the accounts after Confederation, the Statutes had not been followed, and that proper indemnity and equivalents had not been given to Upper Canada, and I say so now. When it was known that the local revenues were diverted from the indemnity to Upper Canada, and handed back to Lower Canada, the Auditor should, in strict justice, and in accordance with sec. 18 of the Seigniorial Act of 1854, have carried to the credit of the Upper Canada Building Fund, a sum equal to their capitalized value; and also, a further sum equal to the difference between the estimated and actual receipts from 1854, to Confederation; and the Auditor knows this just as well as I do.

I.—Mr. Langton.—The first point divides itself into two, because the licenses and seigniory of Lauzon, are not exactly in the same position.

(1.) The licenses were, in fact, sold to the Province for $618,683 50, and these revenues would naturally have passed to the Dominion, unless there was something to the contrary in the Confederation Act. Now, the Confederation Act places the legislation with regard to tavern and other licenses, in the hands of the Local Government, and I do not think that there is any thing in the Act which transfers to the Provinces, any revenue from licenses which had been raised under former legislation, and pledged for a particular purpose. These revenues were pledged for the payment of so much of the seigniorial compensation, which the Dominion has to pay, and the Dominion must either have the revenues or an equivalent to them from Quebec. But it is the Dominion, and not Ontario, which has to pay the seigniors, and Nova Scotia and New Brunswick are as much interested in the Dominion enforcing its rights as Ontario. I do not, therefore, think that this is a matter which arises before the arbitrators at all, though it is an important ques-

tion for the consideration of the Dominion Government. How the Dominion is to recover this from Quebec, and whether Quebec might by local legislation repeal these taxes, cannot be a question which comes before the arbitrators. Quebec might by local legislation, repeal the taxes which are appropriated to pay the Aylmer and Kamouraska Court House debt, or they might abolish the tolls upon the Montreal turnpike roads, from which interest upon the bonds guaranteed by the late Province is derived. But the Dominion is still liable to pay the interest, and it would be for it to take the proper steps to recover it from Quebec. I mention these two cases as being somewhat analogous, although there is this noticeable difference, that the debts by the trustees for the Court Houses, and the Turnpike Roads, are enumerated in schedule four, and therefore come under the cognizance of the arbitrators. Ontario and Quebec between them, owe the capital of these two debts, and an equivalent amount secured by certain taxes, and due by the road trustees, has become their joint property. The arbitrators are to decide how that joint property is to be divided, and with the assent of the Dominion, they may agree to strike out the capital from the debt due to the Dominion by Ontario and Quebec together for these items, handing over the assets to which ever of the two relieves the Dominion from the liability, determining by which of the two, or in what proportions by both, the Dominion is to be reimbursed if called upon under its guarantee to pay the bond-holders. This is the method which I have proposed; but there is another way in which these questions might be dealt with, if the arbitrators think proper. The items might be restored to the liabilities and assets. The debt due by Ontario and Quebec, conjointly, would be increased by so much, leaving the arbitrators to divide the assets, and the proportion of the debt to be paid by each in an equitable manner. Suppose this latter plan to have been adopted, and let us see how these two items would now compare with the portion of the debt represented by the licenses. Quebec, which has got the revenue, pledged to pay the interest on that portion of the debt, must clearly be charged with it in some way. Supposing that it had been charged with this $618,683 50 in the books of the late Province, on the 30th June, upon the ground that it was going to retain these revenues, or in the books of the Dominion after July 1st, because it had retained them. In either case, this would have been an asset of the Dominion, for it is not enumerated in Schedule four, and is entirely withdrawn from the cognizance of the arbitrators. It would be for the Dominion to collect the assets, and Nova Scotia and New Brunswick would share in the benefit from it. But supposing that the arbitrators did come to the conclusion to deal with them in the apportionment of the debt, and charged as much more upon Quebec in consequence. This would not interfere with the Dominion's claim; and it might happen that Quebec would be twice charged with the same thing—once by the Dominion with the whole amount, and once by the arbitrators with some portion of it. It does not appear to me to be a question which the arbitrators can safely entertain at all.

(2.) All the same arguments apply to the Seigniory of Lauzon, but with this difference—the Confederation Act gives the Local Governments authority over future licenses; but not, as I conceive, over license taxes already imposed, and on which there is a lien; but it does expressly hand over to the Provinces all revenues of all kinds arising from lands; it hands them over, subject to any trusts, and it will be for the proper law officers to decide, whether this charge upon the revenues of the Seigniory of Lauzon, would come under the meaning of a trust. I myself feel no doubt that it does; and, if it does, then Quebec will be liable to pay the amount to the Dominion; but the arbitrators can, in my view of the case, have nothing to do with it.

II. The revenues did not in fact yield the amount which they were estimated to produce, and I think the argument of Mr. Wood, a sound one. In estimating the amount which became chargeable on Consolidated Fund, by the Act of 1859, Mr. Wood deducts the balance of the Fund, which assumed $834, 444 40 as the value. Any deficiency upon that valuation would therefore be an additional charge on Consolidated Fund, and would be so much more debt created for local purposes. It would also give Upper Canada an additional claim for compensation, which does not appear to be made in Mr. Wood's statement. As to the amount, as stated by Mr. Wood, it is only an approximation—it appears to be the average semi-annual deficiency at semi-annual interest. The total deficiency on the 12½ years from the passing of the Act of 1854, to June 30th, 1867, was $54,744 12, and if

this is stated in an interest account, we must evidently take the semi-annual receipts as they really occurred, which varied very much from year to year. This brings me to the third point raised.

III. The 18th section of the Act of 1854, provides that an interest account shall be kept of the actual proceeds of the revenues, to the intent that any excess of expenditure over this, shall form the basis of a compensation to Upper Canada, such excess in no case to exceed $600,000. Now, when the Act was passed, it was well known that the capitalization of the revenues, together with $600,000, would not nearly cover the compensation to Seigniors, and that subsequent legislation would become necessary. The Act of 1855, therefore, considerably modified the arrangement contemplated by the 18th section of the Act of 1854, by requiring the Receiver-General to invest the capital of the Revenues and the $600,000 in Debentures. Such an investment was not actually made, but what came to the same thing, interest was allowed as in a book account. When, therefore, in 1855, I opened an account for the Upper Canada Building Fund, then just created, I gave it credit for the whole $600,000, which was certain to be wanted, and the Fund got credit for the same amount. When the total cost of the compensation to be given, became known in 1866, the two accounts were treated in the same way. There never was such an account opened as that contemplated by the 18th section. Such an account can now be made out if the arbitrators wish it, and in fact it must be made out, to ascertain the exact sum chargeable in consequence of Mr. Wood's claim II: but if it is so opened now, it cannot be made to apply to one part of the question only. It will be necessary to reconstruct the whole account, involving both the indemnity to Upper Canada and also to the Townships. I can only make out such a statement upon reference to the original authorities at Ottawa, and only with the assent of the Minister of Finance; but I can indicate what the effect of such a reconstruction would be.

The Fund in May, 1869, as it stands, must have been credited with something near $400,000 as interest on the capital of the revenue, and the $600,000, making the total credit about $1,800,000, and as the balance in 1859, was $697,824 97, the debt including interest, must have been about $1,100,000. In the revised statements, crediting only the actual proceeds of the revenues and their interests, the credits would have been about $220,000, to which would have to be added the estimated value of the revenues. If we now estimated them upon the proceeds of the preceding 4½ years, we may call the capital $740,000, or the total credits $960,000, leaving the expenditure to that date of $140,000 chargeable on Consolidated Fund, which would have to be credited to the U. C. Building Fund. But the Act of 1854, authorized $600,000 to be expended, so the Building Fund would have been also credited with the additional $400,000, which would in fact have been the balance of the fund created in 1854. The Act of 1859, gave U. C. and the Townships indemnity for everything payable beyond that balance, instead of beyond the balance of $697,824 97, as it is now stated, so that the effect of the change upon the four accounts interested, would be this:—The U. C. Building Fund would be diminished by the interest it had been allowed on $600,000 for 4½ years, or about $182,000; the indemnity against the Municipal Loan Fund, would be increased by about $237,000, and the interest in proportion; the township indemnity would be increased by about a quarter of that amount, say $60,000 and the arrears in proportion: and the sum which Mr. Wood places in his statement as the deficiency, would be reduced, as the deficiency would now only count from 1859 to 1867, upon the difference between the actual revenues received, and the estimated value thereof, and as in the latter years, the revenues increased considerably, the result would probably be an item on the other side, for which Quebec ought to have credit.

The Court adjourned at 5.30 till to-morrow.

Saturday, August 27th, 1870.

Mr. Wood resumed his argument, and said:—

Before I speak of the debts created for local purposes in Ontario, I desire to make one or two observations in reply to the remarks of Mr. Langton, made last evening. Mr. Langton says the local revenues, upon the transference of which to Consolidated Revenue Fund, and as an indemnity to Upper Canada, against any contribution to the

charge thereon made for a purely local object in Lower Canada, of $834,444 40, is a question in which the Dominion alone is interested, which has to pay the capital or the annual interest on it at six per cent. per annum. I must confess my surprise at such a statement. I would like to ask Mr. Langton if he really means this? Does he not well know that the excess of debt over the amount the Province of Canada was entitled to come into the Union with, has to be borne by Ontario and Quebec, in such proportions as the arbitrators shall determine, and that that excess is, by charging this sum into the capital of the Seigniors, increased by $834,444 40, and that now that these sources of revenue are taken away and given to Lower Canada, Ontario will have to pay more than one half of this sum? He certainly does know it; and his observations about Nova Scotia and New Brunswick, having an equal interest in these revennes, with Ontario and Quebec,are not in my judgment entitled to the courtesy of a reply. The real truth is, that the debt of the late Province of Canada, having been increased by $834,444 40 drawn out of the Consolidated Revenue Fund by Lower Canada, for which it gave certain local revenues, now that underthe B. N. A. Act, it takes them back, it should assume that much of the excess of the debt of the late Province, before any apportionment takes place between Ontario and Quebec; or, Mr. Langton in making up the debt in the Public Accounts after Confederation, should, when he added this sum to the capital of the Seigniors, have also added it to the Upper Canada Building Fund. Despairing of getting this done now, although it is by no means just to Ontario, I propose simply to treat it as a local expenditure in Quebec, and add it to its local debts, which will only partially indemnify Ontario by increasing the proportion of the excess of the debt of the late Province over $62,500,000, which will fall to Quebec.

I will now proceed to consider briefly:—

The assets which have been left behind by the debts which have been created for local purposes in Ontario, and forming part of the debt of the late Province.

1.—Upper Canada Building Fund.

Debenture Account.....	$36,800.

This is the amount of the residue out-standing of the debentures issued by the late Province, on the credit of the Upper Canada Building Fund. They are found in the "Indirect Debt" of the Public Accounts of 1867.

Mr. Langton.—These debentures really were issued on the credit of the Lunatic Asylum tax. Subsequently, the Upper Canada Building Fund came into existence, and the Lunatic Asylum tax, with all its liabilities, was merged into that fund.

Mr. Wood.—Mr. Langton is perfectly correct in the explanation he has given. Prior to the passing of the Act 20 Vic., c. 8, there was no general fund created by law, into which the various sums of money entitled by Statute to be expended in Upper Canada, were collected. After the passing of that Act, these several sums were and have been placed to the credit of that Fund, which has also been charged with all expenditure made on account of Public Buildings of a local character in Upper Canada. Mr. Langton in his first official statement of the debt of the late Province, deducted the amount of these debentures from the Building Fund; but because these debentures were found in the fourth schedule to the B. N. A. Act, and the change made in the Lower Canada Superior Education Income Fund, the sum of the debentures was added to the debt of the late Province, or which is the same thing, was not deducted from the Building Fund, but was transferred to the assets of Ontario; the effect of which is to increase the debt of the late Province by $36,800, and at the same time to increase the assets of Ontario by the same amount. I refer to page 11½, "Indirect Debt" of the Public Accounts, 1867.

2.—Law Society—Upper Canada

Debenture Account.....	$16,000 00	
Account Current.....	140,015 61	
		$156,015 61.

I need enter into no explanation as to what the Law Society, Upper Canada, is.

I will simply remark that it is an incorporation embracing the legal profession in Upper Canada, instituted to provide accommodation for the Superior Courts of Law and Equity, and to regulate and govern the affairs of the profession generally. These magnificent buildings in which we are now assembled, were erected and are now maintained by the Law Society of Upper Canada.

The debentures mentioned, were issued by the late Province on the credit of the income of the Law Society, derived from taxes imposed on the profession for annual certificates, legal proceedings, and on persons when admitted as Attorneys, or called as Barristers. The debentures at one time outstanding, were much larger in amount than they now are; but the Government took them up as occasion offered, until at Confederation only $16,000 remained outstanding.

The account current is made up of advances, and of large sums paid in the redemption of the debentures. At Confederation, the debt both for debentures and account current, owing to the late Province by the Society, amounted to $156,015 61, incurred chiefly, if not entirely, in erecting the splendid buildings for the accommodation of the Courts, known as Osgoode Hall. This was an expenditure for a local object in Upper Canada, and thereby the debt of the late Province was increased to the amount of the expenditure, and the same is an asset of the late Province. I refer to page 1½ "Indirect Debt," and page 3, "Miscellaneous Accounts" of the Public Accounts, 1867.

Mr. Langton said that he concurred in Mr. Wood's explanation.

3.—Consolidated Municipal Loan Fund—Upper Canada.

Capital Account.....		7,300,000 00	
Less Sinking Fund.....		429,548 63	
		$6,870,451 37	
Less Capital of Indemnity under Seigniorial Act, 1859, *as follows:*—			
Capital of General Seigniories.	$2,776,380 36		
" *Seigniories St. Sulpice*..	336,719 66		
" " *Jesuits' Estates*			
Sup. Ed. Lower Canada.....	92,583 83		
	$3,205,683 85		
Deduct Balance Fund under Act, 1854.....	697,824 97		
		2,507,858 88	
			4,362,592 49
Interest Account:—			
Interest on above Capital.....	(7,300,000)	3,517,084 26	
Less Interest on Seigniorial Indemnity.....		$1,552,175 19	
			$1,964,909 07
			$6,327,501 58

I have already spoken of the Municipal Loan Fund; and concerning which, there is no necessity for making any further explanations.

It will be observed that I have included in the indemnity to Upper Canada as a set-off to the capital, the whole capital of the Seigniories of St. Sulpice, and the capital of the Seigniories belonging to the late order of the Jesuits, carried to the credit of Superior Education, Lower Canada. This, I contend should have been done by the Auditor, in making up the Public Accounts to the first of July, 1867. It will be seen by reference to the P. A. 1867, part II., p. 91, that although the Auditor charged $196,719 66 into the general capital of the Seigniors, and, therefore, into the debt of the late Province of Canada, thereby relieving the Lower Canada Municipalities Fund to that extent, yet he did not credit the U. C. Municipal Loan Fund indemnity account with the same sum, as, according to the twentieth section of the Seigniorial Act, 1859, he should have done. It

is therefore properly placed in the indemnity account. The apology for not doing this, was that by the Statute only $14·,000 was to be charged on Consolidated Revenue Fund, and the residue which turned out to be $196,719 66, was to be charged to the Lower Canada Municipalities Fund, but the interest on the capital at six per cent., was to be paid out of the Consolidated Revenue Fund, until the Municipalities Fund was able to make the payments required by the Statute. It was said—"True, the Municipalities Fund never has been able and never will be able to pay any part of the half yearly interest payments on the capital, still it is only a contingent liability of Consolidated Revenue Fund, and therefore, although it is to be charged permanently to Consolidated Revenue Fund, and into the debt of the late Province, and increase by that amount, the excess of the debt to be borne by Ontario and Quebec, yet the indemnity account is not to be credited with it.

Well, this may have satisfied the conscience of the Minister of Finance, but I must confess it does not satisfy me, and I am quite sure it will not the Arbitrators.

As to the capital of the Jesuits Estates, I have also included this in the capital of the indemnity account as being clearly within the intendment and spirit of the statute. I understand the Auditor takes issue with me on this item, and will give his views to the Arbitrators. I shall not, therefore, at present make any further remarks on this item, but will reserve what I have to say, until I hear the argument of the Auditor. I make the capital of the indemnity account $2,507,858 88; whereas the Auditor makes it $2,218,555 39. I make the interest on the capital of the indemnity account $1,552,175 19; whereas the Auditor makes it $1,350,617 91. I refer to P. A. Part II., p. 91, 1867, and to Mr. Langton's statement of assets items 14, 15 and 25. Sessional Papers, Ontario, 1869, vol. 2, paper No. 29, p. 34.

4. Agricultural Society, Upper Canada.

Loan made to the A. S., U. C...... $4,000 00

This item requires no explanation. It was a loan made to the Society in 1858 which it has never repaid. It was a local expenditure in Upper Canada, and should therefore be charged in the debts created for local purposes in Ontario. It is a debt due from the Society to the late Province, and is therefore an asset. See P. A., 1867, p. 3, "Miscellaneous Accounts;" Mr. Langton's statement of assets, item 18.

5. University Permanent Fund.

An unauthorized expenditure on the University Grounds, Toronto..... $1,220 63

I believe this is the expenditure made in making a drain on the University property at the instance of some private property owners adjoining the University lands, which was undertaken by the then Commissioner of Public Works without authority or permission from the University, and was put a stop to. As the Finance Department had to charge it to some one, it charged it to the University Permanent Fund, and so it appeared in the Public Accounts of 1865, from which the fourth schedule to the B. N. A. Act was taken. The debt is properly repudiated by the University. It was subsequently written off to Consolidated Fund Account before Confederation. Nothing will ever be realized from it, but as it is found in the fourth schedule I have included it in the local debts and assets of Ontario. See P. A. 1865, p. 3, "Miscellaneous Accounts;" Mr. Langton's statement of assets, item 12.

6. Indemnity under Seigniorial Acts.

Act of 1854.....	$600,000 00	
Do. 1859.....	2,507,858 88	
		$3,107,858 88

The first of these items is the indemnity or equivalent carried to the credit of the Upper Canada Building Fund, under the Act of 1854. It is, as I have before remarked, the

only real compensation Upper Canada ever got for a debt incurred on account of the Seigniories in Lower Canada of $4,779,214 28!

The second item is the capital of the Upper Canada Municipal Loan Fund indemnity account under the Seigniorial Act of 1859. It is of no value to Upper Canada and is merely introduced here to keep up the correct *status* of the relative indebtedness of Upper and Lower Canada, on account of local expenditure. It was admitted into the Public Accounts merely as a book-keeping device—being of no *substantial value* to Upper Canada. No good can result now, by going into an elaborate explanation of it. The illusion held out to Upper Canada under the Statute, was that when the accumulations at six per cent. half-yearly on the capital of the indemnity account amounted to the arrears on the Municipal Loan Fund, Upper Canada, then the half-yearly credits over and above current arrears on that Fund, should be paid to the Clergy Reserve (Municipalities) Fund, Upper Canada, and be distributed as are the monies of that Fund. But it was well known that these accumulations would never overtake the arrears. When Confederation took place, these credits, as a matter of course, ceased. Therefore, it is impossible that Ontario should ever derive any benefit from this pretended indemnity; and were not the excess of debt to be divided according to the sum of local expenditure in Upper Canada and Lower Canada, which produced that excess, there would be no good in at all introducing it, in treating of the subject matter of reference before the Arbitrators, except to show how very much Lower Canada has had the advantage of Upper Canada in the expenditure of the public monies in its section of the late Province of Canada.

This concludes, for the present, my observations on the debts and assets in Ontario. Perhaps the Auditor would now like to make some observations.

MR. LANGTON.—I would like to make some remarks on the arguments of Mr. Wood.

In the debts and assets of Ontario, the only point of difficulty, is the capital of the Seigniories of St. Sulpice, and of the Jesuits Estates.

The circumstances of the case were these:—The Act provided that only $140,000 was to be charged against Consolidated Revenue Fund; the rest, $196,719 66, was to be charged against the Municipalities' Fund, Lower Canada; but if that Fund found itself unable to pay six per cent. per annum on this $196,719 66, then the Consolidated Revenue Fund was to advance the money and make the half-yearly payments on the capital, until the Municipalities Fund, Lower Canada, should be in a position to make the payments. Up to Confederation it was able to pay nothing. In fact, it never would have been able to pay anything. After it was known that Confederation would take place, in making up the indemnity account in 1866, I obtained the opinion of the law officers of the Crown, as to whether the whole $336,719 66 was to be taken into the calculation of the indemnity account, or only $140,000; and the answer was, that as the $196,719 66 charged against the Lower Canada Municipalities Fund, was merely a contingent liability on the Consolidated Revenue Fund, I was not to take it into account in calculating the indemnity due to Upper Canada.

But I must confess there is great force in Mr. Wood's argument. For by Confederation, which was then shortly to take place, the Indemnity Fund was wiped out; and the Lower Canada Municipalities Fund was relieved altogether from this charge of $196,719 66, by the same being charged into the capital of the general Seigniories. It does seem that when this was charged into the permanent debt of the late Province, whereby its debt was increased by that sum, and thereby Ontario was made liable for its portion of it, the Indemnity Fund to Upper Canada, should have been increased by the same sum. I think, therefore, that Mr. Wood's argument is a very sound one, for the Dominion has no way of getting this back from Lower Canada, and it must, therefore, go into and increase the excess of debt over $62,500,000, which Ontario will be obliged to help pay.

But in case you allow compensation on the whole $336,719 66, then the Lower Canada Municipalities Fund must be revised as it stands revised in Mr. Wood's statement. But if you reject his view of the case, and do not allow compensation for the whole capital of the Seigniories of St. Sulpice, then the statement of the capital of the Seigniories must be altered to what it stands in the Public Accounts of 1867, and the Lower

Canada Municipalities Fund must be restored to its original sum. If you act upon Mr. Wood's suggestion, it must, however, be borne in mind that corresponding changes must be made in the indemnity to the Townships which must also be increased in a corresponding ratio.

The next point is the Jesuits Estates. I am quite willing to admit that Upper Canada ought to have had compensation for the capital of these Estates; but as a matter of fact, as we cannot pass beyond the law, did the statute give such compensation? I think it is very clear that it did not. It states distinctly in the twentieth section, that Upper Canada was to have compensation for every thing which was included in the foregoing clauses. Having disposed of all monies made payable by the foregoing provisions of the Act, then comes another clause not amongst the foregoing provisions, which gives $92,583 83, the capital of the Jesuits Estates to Superior Education, Lower Canada. The arbitrators can only go by the Act, and I not think its construction can admit of a doubt. But I happen to know aside from the wording of the Act, that the provision made with respect to the capital of the Estates belonging to the late order of Jesus, was placed in the statute as it now stands, *in order that compensation might not be given to Upper Canada, and that such was the intention of the immediate promoters of the Act at the time of its passing.*

MR. WOOD.—Do you mean to tell me that they hoodwinked the Legislature in that way?

MR. LANGTON.—I was in Parliament at the time, and had a conversation with a gentleman who knew all about it; and he told me the clause had been placed as it is found in the statute designedly, and that it was not intended to give compensation for the capital of these estates.

But there was another much worse case. In an Act afterwards passed in 1861, $113,000 was charged against Consolidated Revenue Fund for the Seigniories, and I asked the law officers of the Crown for their opinion, as to whether compensation should be given to Upper Canada for it. They replied, that strictly in law, no compensation was provided for it, but that, nevertheless, I was to give it, and I did so. So that, in fact, Upper Canada got compensation under an Act passed two years after the Act of 1859, in which no word was said about it.

MR. WOOD.—This is news to me. I wonder what has become of that item of compensation. I do not find it in the public accounts. But if compensation was allowed in a case so very doubtful, certainly it should be given in one where the argument is so conclusive as to its justice, and as I think so clear as to its legality.

MR. LANGTON.—The question of the capital of the Jesuits Estates, is really, as Mr. Wood knows, a matter of very little consequence, as it would simply go into that which now has become an imaginary fund, the Upper Canada Seigniorial Indemnity Account, and the difference would only be eight years upon the capital deducted from the Ontario local debts; and if allowed, would, as has been observed in reference to the whole capital of the Seigniories of St. Sulpice, necessitate corresponding changes in the indemnity to the Townships. Besides, as I have already said, I do not think in law it is allowable; and I think it would be better for Mr. Wood to withdraw the claim. I think his safest course is not to insist upon any claim so very doubtful, to say the least of it, as this item.

One other item I will make mention of, is the interest on the capital of the indemnity. I see Mr. Wood has computed it at six per cent., with half-yearly rests for sixteen and one-half years. Of course, in making my calculations, I did not include these items. But apart from these items altogether, I call attention to the report I made in my "statement of assets," as to the justness of increasing the interest by compounding it half-yearly. In the Provincial books, there has been allowed on this indemnity account so many years annual interest, but not compound interest. The interest on the indemnity account is the equivalent or parallel of the interest that is charged upon the arrears of the Municipal Loan Fund, and that is at compound interest. It appears to me that the two accounts are parallel accounts. If compound interest is charged against the one, it should be allowed to the other, otherwise it is not a full indemnity. It would be well for the arbitrators to look over my report on this subject, in my "statement of assets." I know Mr. Wood is familiar with it.

I therefore think the interest on the indemnity account, as it now stands in the public accounts, should be increased by the difference between simple and compound interest. Assuming the capital of the indemnity at the sum it stands in the public accounts, $2,218,555 39, this difference would amount to $264,923 75.

Whether or not, Mr. Wood has taken this into account, I do not know; but in finally adjusting the amount of the debts and assets, it would be well to bear it in mind.

I think this disposes of everything in Upper Canada.

MR. WOOD.—I wish to offer a few observations in reply to Mr. Langton, with regard to the Jesuit estates, named in the schedule as—"Jesuits Estates, Superior Ed. L. C., $92,583 83." In an official return brought down to the House in 1869, from the finance department, Sessional papers, 1869, vol. 2, No. 5, paper No. 64, it is stated:—

"It is further to be observed that there are two liabilities incurred under the Seigniorial Act of 1859, upon which, neither the townships nor Upper Canada have received any indemnity, viz:—The capital of the Jesuits Estates, $92,583 83, and $196,719 66, which was part of the capital of the Seigniories of St. Sulpice, which was made a charge against the Lower Canada Municipalities Fund, and not against the Consolidated Fund. Until, however, the former fund was able to pay the annual amount, the interest on the $196,719 66 was to be paid out of the Consolidated Fund; and it is included in the $3,113,100 02 which is counted as part of the debt of the late Province, the corresponding liability of the Municipalities Fund, being now an asset of Quebec, under the B. N. A. Act."

As to the $196,719 66, part of the capital of the Seigniories of St. Sulpice, there needs no discussion. Down to the time of Confederation, it was regarded as merely a contingent liability of Consolidated Revenue Fund, but nominally a charge against the Lower Canada Municipalities Fund, to whose debt it was carried in account. But in making up the debt of the late Province, after Confederation, it was permanently charged against the late Province, and included in the capital of the Seigniories in the item, $3,113,100 02, found in the statement of the debt, P. A., 1868, P. III, p. 70, and those of 1867, P. II, p. 91. In making up the local debts of Lower Canada, it must therefore be transferred from the Municipalities Fund to the capital of the Seigniories, as I have explained in former observations on this subject. But I am now speaking with reference to this item, as it stands in the statement of the local debts of Upper Canada, included in the indemnity account, as an off-set to the capital of the Municipal Loan Fund of Upper Canada. There can be no question, it should now form part of the capital of that indemnity account under section twenty of the Seigniorial Act, 1859. This is manifest. Indeed, it is admitted by the Auditor.

But the real question I wish to discuss in this connection is, should the capital of the Jesuits Estates, $92,583 83 also form part of the capital of that indemnity account? I think it should, for the reasons given in the above extract from the official return made by the Finance Department on this subject, and because a careful consideration of the statutes, Seigniorial Act, 1854, and the Acts of 1855, 1856 and 1859, amending it, to several clauses of which I shall refer, seem fully to justify it.

Section thirty-five of the Seigniorial Act of 1854, says:—

"And for the interpretation of this Act—Be it enacted that none of the provisions of this Act, shall extend to the wild and uncultivated lands in Seigniories held by the Crown in trust for the Indians, nor to the Seigniories held by the ecclesiastics of the Seminary of St. Sulpice, of Montreal, nor either of the Fiefs, Nazareth, St. Augustine, St. Joseph, Closse, and other *arrière fiefs* depending upon *(relevant de)* any of said Seigniories, nor to the Seigniories of the late order of Jesuits, or other Seigniories held by the Crown, and not above mentioned, nor to the Seigniories held by the principal officers of Her Majesty's ordnance, nor to any lands held *en franc aleu noble*, and granted under, and by virtue of the Act passed in the third year of the reign of his late Majesty King George the Fourth, and entitled an Act for the relief of certain *Censitaires or grantees of La Salle* and others therein mentioned, possessing lands within the limits of the township of Sherrington: Provided always that the Governor in Council may, if he shall see fit, grant to the *Censitaires* of the Crown Seigniories, the revenues whereof belong to the Prov-

ince, (including the Seigniories of the late order of Jesuits) upon commutation of their lands, equal advantages and relief as are hereby granted to the *Censitaires* of Seigniories not excepted from the operation of this Act."

Did "the Governor in Council grant the equal advantages and relief" to the Seigniories of the late order of Jesuits? Were they technically Crown Seigniories, or was the legal estate vested in the Crown, and did the Crown hold them in trust for Superior Education in Lower Canada? It would appear that both these questions must be answered in the affirmative.

1. The language used is "Crown Seigniories, including the Seigniories, of the late order of Jesuits."

2. In the Seigniorial Act, 1865, section 7, passed only five months after the Act, 1854, it is declared that—"Notwithstanding anything in the said Seigniorial Act, schedules may, if the Governor shall see fit so to direct, be made under the provisions thereof, for the Seigniories held by the Crown, and the revenues whereof belong to the Province, including the Seigniories of the late order of Jesuits, in like manner and under the same provisions as for other Seigniories, (omitting such particulars as cannot apply to Crown Seigniories), and with like powers to the commissioners: Provided that no part of the appropriation in aid of the *Censitaires* made by the said Act, shall be applied towards the redemption of Seignorial rights in such Crown Seigniories, nor shall any such schedule be deposited in the manner provided in the 13th section of the said Act, or operate any compulsory commutation of tenure, or substitution of any *rente constituee* for Seigniorial rights and dues in such Seigniory; but the Governor in Council may, if he sees fit, allow to the *Censetaires* in the said Seigniories upon commutation of their lands, equal advantages and relief with those which the *Censitaires* in other Seigniories, shall be found to obtain under the said Act, and the schedules made under this section, shall serve as the basis for calculating the extent of such advantages and relief to be so allowed to the *Censitaires* in the said Crown Seigniories."

In this section further provision is made for ascertaining the value of the capital of feudal rights in the Seigniories of the late order of Jesuits—and it is but fair to presume that the Governor did direct the schedules to be made, and that under that direction they were made. It would also appear to be conclusive that these Seigniories were technically Crown Seigniories, although known as Seigniories of the late order of Jesuits, because, before their confiscation they belonged to that order.

3. No other and distinct and direct authority than that given in the sections cited, can be found bringing these Seigniories under the operation of the Seigniorial Acts of 1854 and 1855.

4. The annual payments on the capital ascertained under the provisions of these two Acts, could not be paid out of the fund of 1854; and the only authority for their payment out of the Consolidated Revenue Fund, is contained in the seventh section of the Seigniorial Act, 1859, which assumes that these Seigniories were, prior thereto, brought under the provisions of the Acts of 1854 and 1855, in so far as ascertaining the capital value of the rights and duties was concerned; and therefore, it simply provides for half-yearly payments out of Provincial funds. It is as follows:—

"So much of the constituted rents representing the *lods et ventes* and other casual rights, as will not be redeemed, out of the fund appropriated for the relief of the *Censitaires* by the Seigniorial Act of 1854, shall be assumed by the Province, and paid by the Receiver General, out of the Consolidated Revenue Fund, to the Seigniors or parties respectively entitled to such *rentes* half-yearly, on the first day of January and July, and the *Censitaires* shall be discharged from the payment thereof."

5. The specific mention of the Seigniories of St. Sulpice and not those of the Jesuits, clearly proves that the latter Seigniories had been brought under the operation of the statutes of 1854 and 1855, and were included in the provisions of the seventh section of the Act of 1859 above cited.

6. The large amount of arrears, $47,689 04, more than half the capital, shows that they had been under the operation of the statutes of 1854 and 1855, for a much longer time than from the passing of the Act of 1859, when by that Act, the annual or half

yearly payment of the Seigniorial duties were suspended and allowed to accumulate. This is directly admitted to be the fact in the twenty-third section of the Act of 1859.

"23. A sum of money equal to the *constituted rents* representing *lods et ventes* and casual rights in the Seigniories forming part of the Jesuits Estates, to be calculated in the manner prescribed by the said Seigniorial Act of 1854, and the Acts amending it, and reckoned from the time when the said casual rights were abolished, shall be paid yearly out of the Consolidated Revenue Fund, to the Lower Canada Superior Education Fund."

For the foregoing reasons, I repeat it seems perfectly clear that these Seigniories were not by the section just quoted, but by the direction of the Governor under section thirty-five, Seigniorial Act of 1854, and section eight, Seigniorial Act of 1855, brought within the operations of these two Acts, as well as within the provisions of the subsequent Acts of 1856 and 1859. If this conclusion be correct, provision for the payment to be made on this capital was provided for, in the seventh section of the Act of 1859, and the payments are comprehended in the twentieth section of the same Act; and therefore Upper Canada must have carried to the credit of the capital of its Municipal Loan Fund indemnity account, a sum equal to the capital of the Seigniories of the Jesuits Estates, $92,583 83—the twenty-third section of the Act of 1859, simply directing to what fund the payments should be made, and making such payments yearly instead of half-yearly.

MR. LANGTON, in reply, contended that the Jesuit Estates did not come under the statute. He would call the attention of the Arbitrators to the difficulty they would get into, if they allowed Upper Canada indemnity with regard to this item. If they allowed Upper Canada indemnity, they would also be obliged to grant indemnity to the townships, and increase the debt of the late Province. Were they prepared as arbitrators to take this upon themselves, without consultation with the Dominion Government? He felt bound to give an opinion on the subject, and a warning to the arbitrators of the difficulty they would place themselves in.

MR. WOOD.—The arbitrators were bound to examine every item in the schedule, and give a decision. Mr. Langton had failed to show why any difference should be made between the Jesuit Seigniories and other Seigniories—those of St. Sulpice for instance. As to the townships, that was a domestic affair as the townships were situated in Quebec, while the point under discussion, was a matter between the two Provinces.

MR. LANGTON.—It would, perhaps, be advisable to make a calculation, and see if it was worth while to create a difficulty for the amount at issue.

MR. WOOD.—We are obliged to give up large sums in this connection—and we shall give up as little more as possible. I cannot see how the Dominion Government can fail to reimburse Ontario if they allow Quebec to take these amounts.

MR. LANGTON having finished his calculation, stated that the amount in dispute would give Ontario $550 per annum, and the townships $1,000. And the capital of these annual sums will have to be added to the debt of the late Province. It will involve the re-casting of the whole Seigniorial accounts. It is a very serious matter.

COMMON SCHOOL FUND AND UPPER CANADA LAND IMPROVEMENT FUND.

MR. WOOD then took up the question of the Common School Fund, and Upper Canada Improvement Fund, and said that in the Public Lands Act, passed in 1853, the fourteenth section made provision for the establishment of the Upper Canada Land Improvement Fund. The substance of this section will be found in the Consolidated Statutes of Canada, chap. 26, sec. 7, p. 303, entitled "An Act respecting the Public School Lands and Fund for Education." By reference to the first section of this chapter, it will be observed that under the authority of 12 Vic. chap. 200, a million acres of the waste lands of the Crown, were set apart for the establishment of a Common School Fund. These lands were situate chiefly in what now constitutes the counties of Huron, Bruce and Grey. At that time they were emphatically waste lands of the Crown, far removed from the settled portions of the Province, without roads, or any but the most difficult means of access. The settlement of the wild lands of the Crown proceeded slowly. The school lands were

held at $2 50 per acre, and the Crown lands at $2 per acre. The country called loudly for such encouragement to be afforded by the Government of the day as to induce persons to take up and settle these lands—pointing out that the greatest obstacle to settlement, was the want of roads and bridges, and such other local improvements as were indispensable in an unbroken wilderness. Under these circumstances, the Government of the day adopted a vigorous policy with respect of the actual settlement of the wild lands of the country. And in pursuance of this policy, the then Commissioner of Crown Lands, Dr. Rolph, made the following report to the committee of the Executive Council :—

"MEMORANDUM."

"The Commissioner of Crown Lands respectfully submits that in order to facilitate the settlement of the counties of Bruce and Grey, the school lands be reduced from 12s. 6d. to 10s. currency per acre, payable by annual instalments in ten years with interest. That all future sales in the said counties, shall be on the following terms, viz :—That there shall be actual and immediate and continuous settlement during five years ; that there shall be cleared annually within the first five years, five acres upon each and every lot of one hundred acres (or fifty acres free grant, as the case may be), with a dwelling house built eighteen feet by twenty-six feet upon each lot ; that the occupant shall neither sell nor cut, nor permit any person whatsoever, to sell or cut, any of the growing wood upon the said parcel of land, excepting for the clearance of the land, for his fuel, and for the buildings and fences he may erect upon the same, until the same lot is paid for and patented : that until paid for and patented, all wood cut for other objects on the same parcel of land, shall be deemed to have been cut by the occupant, and may be taken and carried away by any person duly authorized by the government to that effect, without any formality whatever ; that when the land has been paid for and patented, the timber, though owned by the patentee, shall be held liable without any claim for remuneration by the purchaser, or those claiming by or through him, to any dues the Legislature may please hereafter to impose on timber generally.

"That on default of the occupant to fulfil and observe any of the conditions above specified, the Commissioner of Crown Lands, his successor in office, or any other officer duly authorized, may, on behalf of the Crown, re-enter and take back the said parcel of land without institution of legal proceedings therefore, or otherwise eject therefrom the occupant, his heirs and assigns, or other persons in possession, and dispose of the same as to the competent authorities shall seem meet.

"That the regulations necessary to carry out and ensure the details of such actual and *bona fide* settlement, be established and enforced by the Commissioner of Crown Lands for the time being.

"That application be made to the Legislature to allow 2s. 6d. per acre of the purchase money to be expended on the local roads and harbours, and that no deed issue until the terms of settlement and payment are fulfilled.

(Signed), "JOHN ROLPH.

"3rd July, 1852."

"ORDER IN COUNCIL, 7th July, 1870."

Upon which an order in Council was passed in these words :—

"Upon the memorandum submitted by the Commissioner of Crown Lands, relative to the School Lands in the Counties of Grey and Bruce, the Committee of Council recommend the reduction in price from 12s 6d to 10s an acre, as suggested, be approved, and that the regulations laid down in the said Report be adopted; and further, that a measure be submitted to Parliament to authorize the expenditure of a sum equal to 2s 6d an acre of the purchase money on the improvement of the roads and harbors within the said Counties ; and the Committee further recommend that not more than 200 acres be sold to any one individual except upon special recommendation of the Commissioner of Crown Lands, approved of by His Excellency in Council.

(Signed.) "W. A. HIMSWORTH.

"To the Honorable the Commissioner of Crown Lands."

These documents show that the policy of the Government was intended to foster and promote actual settlement, by reducing the price of School Lands from $2.50 to $2, and those of the Crown from $2 to $1.75, and by authorizing "the expenditure of a sum equal to fifty cents an acre of the purchase money on the improvement of the roads and harbours within the said counties." In pursuance of the policy indicated by this report of the Commissioner, and order in Council thereon made, in the month of July, 1852, at the following Session of the Legislature the Government introduced and passed through Parliament the Act entitled, "An Act to amend the law for the sale and the settlement of the public lands," 16 Vic., c. 159, and in the fourteenth section of that is contained the provision for appropriating one-quarter and one-fifth respectively of the proceeds arising from the sales of School and Crown lands respectively for local public improvements within the respective counties in which the lands were situate. This is the origin and reason for the establishment of what is called in the public documents and public accounts of the country "The Upper Canada Land Improvement Fund." In further pursuance of the policy of the Government, inaugurated in the month of July, 1852, new regulations were adopted in respect of the sale of School and Crown lands, the principal points of which were:—

1. Payment down of one-tenth of the purchase money at two dollars per acre.

2. Purchaser to enter immediately and occupy the land continuously, clear at least less than five acres for every one hundred acres, build a dwelling house not less than 18 x 20 feet.

3. Purchaser not to cut timber except for clearing and necessary purposes of building, &c., until the lands were patented.

4. Purchaser not to transfer the contract for purchase or sale without the written consent of the Commissioner of Crown Lands.

Following out the same policy, the Government, in an order in Council, dated 27th of of February, 1855, referred to the "Upper Canada Land improvement Fund," as being established under the Lands Act, 16 Vic., cap. 159, and ordered certain expenditure to be made at that time out of the Fund. And in another order in Council, dated on the 27th March, further assumed the existence and availability of that Fund. All the agents of Crown Lands, and Government officials connected with the survey and sale of the School and Crown Lands, informed all persons of the existence of this Fund, and the great advantage therefrom arising to actual settlers. From the discussions which had taken place in the House on the passing of the Public Lands Act, the official announcement made by the Government of their policy, distinctly mentioning and emphasizing the great inducement held out to immigrant, and others seeking lands for actual settlement and occupation, by the reservation for their own benefit of one-fourth and one-fifth of the proceeds of the purchase money of School and Crown Lands, the comments made upon, and the notice taken of, these encouragements by the press from one end of the land to the other, and by the admitted existence of the Fund by order in Council and the actual expenditure of money out of it as early as the forepart of 1855, by the public books of the Department, prepared and printed with the heading "Road Improvement Fund"—"Statements of the amounts available for public improvements on the sale of Crown, Grammar School, and Crown Lands under 16 Vic., cap 159, sec. 14,"—the good faith of the Government was pledged as positively, and emphatically, as it could be, to all who should brave the hardships of settling in these back regions, that of all the money they should pay for their lands, ¼ and ⅕ respectively of School and Crown Lands should be reserved and expended in their respective localities in making local public improvements.

What I contend for now is this, that the Government is bound to keep good faith with these men, who, whilst this state of things existed, went in there and purchased these lands on the terms and conditions I have mentioned—that is, all lands sold from the passing of the Act, on the fourteenth of June, 1853, to the Order in Council doing away with the Fund on the sixth of March, 1861. For all lands sold during that period, one-quarter of the proceeds of the School Lands and one fifth of the proceeds of the Crown Lands must be given to this Fund for the benefit of those settlers. Down to the sixth March, 1861, the Government have paid over, in accordance with the law, all the money the purchasers were entitled to under the Act; but the money paid in at Quebec and

Ottawa from the sixth of March, 1861, to the first of July, 1867, on lands sold prior to the sixth of March, 1861, and after the passing of the Act on the fourteenth of June, 1853, has never been paid over to the Improvement Fund, as I contend it should have been. I do not claim any thing for lands sold after the sixth of March, 1861,—only for lands sold whilst the scheme existed. Now, from 1861 to 1867, there was received at Ottawa on account of School Lands, after deducting full compensation for collection, $124,685.18. I claim that that sum should be taken from the Common School Fund, being one-fourth of the receipts from Common School lands within the time I have mentioned, and placed to the credit of the Upper Canada Land Improvement Fund. I make the following references :—

Ontario Sessional papers, 1869, vol. 2, No. 29, on page 45. The official statement made by the Crown Lands Office of the moneys received from 1861 to 1867, is found in the Ontario Journals, 1869, appendix No. 2, pages 28 and 29. Mr. Russell's evidence, page 14. Orders in Council from page 15 to page 24.

Whilst I take this $124,685 18 off the capital of the Common School Fund, I simply bring it in under, and add it to the Upper Canada Improvement Fund.

This process does not increase the debt of the late Province ; for while the sum is added to the Upper Canada Land Improvement Fund, it is deducted from the Common School fund.

Mr. Macpherson.—What have you allowed for collection ?

Mr. Wood.—Twenty per cent.

Mr. Grey.—What is the authority for that ? Does not the Act to which you have referred limit it to six per cent ?

Mr. Wood.—The Act allows only six per cent., but by an Order in Council of the Government of the late Province, twenty per cent. was authorized to be retained by the Government, which I believe was uniformly done down to Confederation.

Mr. Grey.—The question is, if you have deducted more than six per cent., will not Quebec say, "you have taken advantage of my absence ?"

Mr. Langton.—Mr. Wood is not speaking of the proceeds of the common school fund collected since Confederation, and to be collected hereafter by Ontario. He is speaking of collections made by the late Province, one fourth of which he argues should go to the Improvement Fund.

He has very properly deducted from the amount going to that fund, twenty per cent—giving Quebec the benefit of the doubt ; for it makes that fund which is coming to Upper Canada, less. When the arbitrators come to decide what Ontario shall have for its collections of the Common School Fund, outstanding, it will then be for them to determine whether they will adhere to, or depart from, the compensation given in the statute. But in respect of the collections by the late Province, Quebec has the advantage by the allowance of the twenty per cent.

Mr. Wood.—I will just remark in passing, that I am informed by the Commissioner of Crown Lands, that the actual expense of the collection, is at least twenty per cent. The department paying the Crown Lands agent alone from 7 per cent. to 10 per cent. But I propose that the arbitrators in settling the common school lands matter shall keep within the statute, as I have advised them to do in all other cases.

Mr. Grey.—What is the value of the unsold lands ?

Mr. Wood.—Very trifling. The lands unsold do not exceed twelve hundred acres. But the outstanding purchase money on lands sold exceeds a million of dollars.

I should observe that the Attorney General would be glad, if it could be done, to have the value of the outstanding moneys on these lands sold, as well as the value of the unsold lands made up, and pay a certain amount over to Quebec, in discharge of its claim in respect of the same. I am afraid, however, the arbitrators could only do this on consent of the parties to the reference. Entertaining this opinion, I will not press it upon their consideration. I will now speak of the division of the

Common School Fund.

In explanation of this fund, I refer to 12 Vic. c. 200; 4, 5, Vic. c. 18, sec. 3; 7 Vic., c. 9, sec. 1, Consol. Stats. of Canada, chap. 26. Section one, of chap. twenty-six, says:

"1. The Commissioner of Crown Lands, having, under the provisions of the Act "12 Vic. c. 200, and under the direction of the Governor in Council, set apart and ap- "propriated one million of acres of public lands, for common school purposes, and por- "tions thereof having been disposed of under the said authority, the remainder shall be "disposed of by the Commissioner on such terms and conditions as may, by the Governor "in Council, be approved, and the money arising from the sale or disposal of any portion "of the said lands shall remain, or be invested and applied towards creating a capital "sum sufficient, at the rate of six per centum per annum interest, to produce a clear sum "of four hundred thousand dollars per annum, and the capital sum and the income there- "from shall form the Common School Fund; but before any appropriation of the moneys "arising from the sale of such lands shall be made, all charges thereon for the manage- "ment or sale thereof, and all Indian annuities charged upon such lands or moneys, shall "be first paid."

"2. All moneys arising after the twenty-seventh day of May, one thousand eight "hundred and fifty, from the sale of any public lands of the Province shall remain or be "set apart as part of the capital of the said Common School Fund until the same is "sufficient, at the rate aforesaid, to produce the said sum of four hundred thousand dol- "lars per annum."

Section third provides for the investment of the capital of the Fund, and for its remaining with annual increases until, and in order to the producing and creating the stipulated annual income of $400,000. And it provides that the Fund and income thereof should not be alienated for any other purpose whatsoever, but should remain a perpetual fund for the support of Common Schools in the whole Province of Canada, and the establishment of township and parish libraries.

Section four declares that for the establishment, support and maintenance of common schools in the Province of Canada, until the Common School Fund should produce a net yearly income of $200,000 or upwards, there should be granted to Her Majesty yearly, the sum of $200,000, and that such sum should be made up of the annual income and revenue, derived from the permanent fund mentioned, and of such further sum as should be required to complete the same, out of any unappropriated moneys raised and levied by authority of Parliament, for the public uses of the Province; and that grant was to constitute the Common School Fund.

By section five, it is provided, that this annual sum of $200,000, should, from year to year, be apportioned by Order in Council, between Upper Canada and Lower Canada, in proportion to the relative numbers of the population of the same, respectively, as such numbers should, from time to time, be ascertained by the census next before taken in Upper Canada and Lower Canada.

It therefore appears that it was the intention of the Legislature to allow this fund to remain and accumulate until its capital, *which was never to be decreased or alienated*, should produce an annual income of $400,000. The income of the capital was to be supplemented by annual grants to make it up to $200,000 per annum, until the income from the capital would produce that sum, and this sum and the excess of it, when the income should exceed $200,000, was to be divided between Upper Canada and Lower Canada, according to population as ascertained by the last preceding census.

This fund was not treated or dealt with exactly as the statute directed, although in accordance with its spirit and intent. Instead of the annual income from the capital being applied to the expenses of education, and supplemented by an annual grants, the whole sum given annually to common schools, consisted of the Legislative grant, and the annual income of the school fund, was added to the capital, and allowed to accumulate. It should be observed that these annual grants were apportioned to Upper Canada and Lower Canada, according to population as ascertained by the last preceding census, according to the provisions contained in the fifth section of the Act mentioned. The depar-

ture from the strict letter of the statute, however, makes no difference in adjudicating upon the matters submitted to the arbitrators, inasmuch as, if the income had been spent, as the statute contemplated it would be, the net debt of the late Province would have been so much less, but the fund would have been diminished by the same amount, and just so much less would remain of the fund to be apportioned between Ontario and Quebec. No good could therefore flow from a revision of the manner in which the account was kept for twenty years preceding Confederation.

The fund, with accumulations, on the first day of July, 1867, amounted to $1,733,224 47, of which $58,000 for principal, and $29,580 for interest, consist of an investment in the Quebec Turnpike Trust bonds. Since Ontario has had the management of the school lands, I suppose between two and three hundred thousand dollars have been collected, and there is still outstanding on lands sold, upwards of a million of dollars. The lands unsold, as I have already stated, do not exceed two thousand acres.

The Quebec Turnpike Trust bonds, are mentioned in the fourth schedule to the B. N. A. Act.

Now it is supposed that the arbitrators have jurisdiction over this fund and the lands belonging to it. Upon this, I am not prepared to pronounce a decided opinion one way or the other. It may be that as to the fund realized before Confederation, and in the hands of the Dominion, the Dominion are bound to hold it subject to the trusts created by the statute, and to the apportionment of the annual income thereof to Ontario and Quebec, according to population of the last preceding census. I am inclined to think this is the proper view to take of it.

As to the outstanding moneys on lands sold, and the unsold lands, I think Ontario took them, subject to the trust in respect of the same, and are therefore bound to collect the moneys, charging only the statutory allowance therefor, and when collected, to pay the money over to the Dominion, to be added to and held on the same trust as it holds the fund already in its hands. I think, to adopt the words of the statute, that the fund should be inalienable for any other purpose whatever, but should remain a perpetual fund for the support of common schools, and the establishment of township and parish libraries.

In every matter which I have brought under the consideration of the arbitrators, I have endeavoured to keep strictly within the statutes relating to the same. So in this case, I think it unsafe to depart from the statute. According to the statute, the capital of this fund must forever remain intact. The annual income must be apportioned between Ontario and Quebec, according to the population of these Provinces, as ascertained by the last preceding census. I would recommend the leaving of this fund just where the law has placed it, and the apportionment of the annual income to be made according to the provisions of the fifth section of the school lands Act.

It may be said that Quebec should have no part of this fund. In strict equity, perhaps, this is the case. I am inclined to think it is. The lands from which this fund is derived, are all situate in Upper Canada. No compensation or equivalent in any form was ever given Upper Canada, and none will ever be given. It is, I admit, a clear gift on the part of Ontario. But we cannot act upon this clear principle of justice, without doing violence to the statute creating the fund. By that Act, the fund was created for the support of the common schools, as well in Lower Canada as in Upper Canada, and although the relations of the two sections of the late Province of Canada, are now changed, yet as in the Confederation Act, no alteration was made in the school lands Act, it remains as it was before Confederation, and must be carried out in all its provisions: and therefore, Lower Canada must, in my opinion, according to law, have the same portion of the annual income from the capital of this fund, as it would have had, had Confederation never taken place.

I therefore think the arbitrators should award that the fund in the hands of the Dominion, should remain there, and that Ontario should collect and get in the outstanding portion of the fund and pay it, less six per cent. for collection, and one-fourth part thereof for the improvement fund, over to the Dominion, to be added to that which it already has, and that the annual income from the whole capital fund realized, should be apportioned between Ontario and Quebec, as provided in the fifth section of the school

lands Act—and that the Quebec Turnpike Trust debentures, should be held by the Dominion on the same trust as the capital of the fund.

This, it seems to me, is a most satisfactory mode of disposing of what otherwise might prove a difficult question.

It may not be inappropriate to notice some items which, as I think in addition to those already mentioned, should be dealt with and passed upon by the arbitrators.

Indian Annuities.

As Quebec has formerly made a claim in respect of Indian Annuities, I think it would be well for the arbitrators to put the question at rest by awarding definitely on the subject.

Montreal Turnpike Trust Debentures $188,000

The Montreal Turnpike Trust has outstanding $188,000 debentures, the payment whereof was guaranteed by the late Province of Canada, which obligation by the B. N. A. Act, is transferred to the Dominion. But this is only a conditional liability. If the trust fails to meet its payments on these debentures, then, and then only, can the Dominion be called upon to discharge its obligation. The trust is solvent and abundantly able to meet all its liabilities; and the probabilities of the Dominion ever being called upon to pay anything on account of these debentures is exceedingly remote—so unlikely that it has not included them in its statement of the debt of the late Province. Still there is the contingent liability resting upon the Dominion, against which it is proper it should be indemnified. Now as this expenditure was made in Lower Canada or the obligation incurred in respect of a local object in Lower Canada, and as the trust is subject to the legislation of Quebec, and under the control of its government, it would appear to be reasonable and just that the arbitrators should, while assigning this asset to Quebec, provided that if at any time the trust should fail to meet its payments in respect of these debentures, and in consequence thereof, recourse is had to the Dominion, the Province of Quebec should make good to the Dominion any sum or sums it may or shall pay on account thereof. Ontario should, as is manifest, be relieved from all responsibility in the premises, as it had no interest in the creation of the obligation, and as it has no control over the subject matter of the trust.

Debentures Issued by the Montreal Harbour Commissioners, $481,426.27.

The Montreal Harbour Commissioners borrowed on the credit of their debentures, guaranteed by the late Province, $481,426.27. The Montreal Harbour may properly be considered a work in which Upper Canada and Lower Canada are equally interested. It is emphatically a Provincial and not a local undertaking. Therefore the responsibility of those debentures rests alike on both Provinces in such ratio as the arbitrators shall determine. The harbour is perfectly solvent, and the Commissioners always have, and doubtless always will promptly meet all their obligations. Therefore the Dominion has not included the amount of these debentures in the debt of the late Province, but as the contingent liability exists, the Dominion should be indemnified against it. And as both Upper Canada and Lower Canada are equally interested in the harbour, and as the Commissioners who control the harbour are subject to the Dominion Government and Parliament, it seems to me that the obligation to make good to the Dominion anything it may have to pay on account of these debentures, should rest upon both Ontario and Quebec, and I think provision to that effect should be made in the award.

Crown Lands Suspense Account ..... $112,718.63.

This is the amount at which this account stands in the books of the late Province of Canada. Money is from time to time paid into the Crown Lands Department on account of lands, the sale of which, for one cause or another, cannot be carried out at the time. Such payments go into what is called a Suspense Account; and when after awhile the difficulty is removed, or found to be insurmountable, the payment goes to the proper

account or the money is refunded. The annual movement in and out of this Suspense Account in Ontario is about $10,000. In the late Province it was no doubt more, I should think between $12,000 and $20,000. I am informed by the Auditor, that of the whole amount of $112,748.63, perhaps not more than $25,000 is really in suspense; the residue of the account representing bad book-keeping, the most of it dating back to a period anterior to the Union, in 1841. This residue is then clearly only an imaginary liability. And most of the $25,000 actually held in suspense will be ultimately applied on the sales of lands, and but a small portion of it will have to be refunded. If the Dominion were to assume this account, it would have to charge it into the debt of the late Province, and increase it by that amount, while it would gain by the five per cent. on so much of the excess of the debt, as is the difference between $25,000, the actual liability, and $112,748.63, the nominal liability. There is another difficulty in the Dominion assuming and dealing with this Suspense Account. All the books and papers relating to the various items which compose it are in the hands of the Governments of Ontario and Quebec, without which it would be almost impossible to handle it. Under all these circumstances the Dominion has thrown upon the Arbitrators the responsibility of dividing this account between Ontario and Quebec. Mr. Dunkin and myself had agreed to a division, namely, that Ontario should discharge all obligations arising in respect of lands in its Province, and Quebec should do the same; and the two Governments, since confederation, have acted upon that understanding. Much the larger portion of the real liability falls upon Ontario under that arrangement. Nevertheless, I think it, under all facts surrounding the accounts, equitable and just. At all events, I make no complaint, and would suggest to the arbitrators the propriety of awarding accordingly.

Crown Lands Department ..... $253,089.76.

This item was always included in the published Public Accounts of the late Province, among the banking accounts, and treated as so much cash. This account, like the Crown Lands Suspense Account, though not to so great an extent, represented much bad book-keeping. It consists of some valuable assets—money due from solvent Crown land agents, but unfortunately, to a large extent, of balances due from defaulting agents, from whom nothing will ever be collected. As the moneys which make up this account were actually paid, or supposed to be paid, it has always appeared in the Provincial books as so much cash. Some collections can, no doubt, be made on this account; how much or to what extent is unknown. But as the Crown Lands Departments of Ontario and Quebec have the books, they are the only parties who can close up these unsettled accounts. Were the Dominion to undertake this, it could only do it through Ontario and Quebec as its agents. If the Dominion retained it and made collections under it, such collections would have to be treated like all other arrears received by the Dominion, and go in reduction of the debt of the late Province. This would be equivalent to deducting the estimated value of the item from the public debt. But it also would be equivalent to striking the item out of the accounts in the Dominion books altogether, and handing it over to Ontario and Quebec to make the most of it they can. This has been done. It remains, therefore, to the arbitrators to divide this asset between these Provinces.

In the forepart of the discussions on the arbitration, the Auditor suggested that the most satisfactory mode of the division of this account would be to allow to Ontario all it could make of that portion of it arising in Upper Canada, and to Quebec all that portion arising in Lower Canada. This suggestion was assented to both by Mr. Dunkin and myself, and the two Provinces, since confederation have acted on that principle. It is, however, for the arbitrators to examine the accounts, and make such a disposition of it as in their judgment is just to both parties.

Library and other Personal or Chattel Property.

It is quite clear that the public Library and other chattel property of the late Province of Canada, still remain the property of that Province, or rather of Ontario and Quebec conjointly. It is estimated that the Library alone is worth from forty to fifty thousand pounds. Such property in the other Provinces is retained by them. It needs no argu-

ment to show that Ontario and Quebec are both legally and equitably entitled to retain like property belonging to them at the Union. The B. N. A. Act is explicit on the subject. But it would be very inconvenient to all parties for Ontario and Quebec to assume and take actual possession, and divide or sell the same and apportion the proceeds.

I would, therefore, suggest that the arbitrators should fix a definite sum as the value of this property to be paid by the Dominion if it chooses, to take it at that sum, and to provide in what ratio it shall pay the money to Ontario and Quebec. In the event of the Dominion declining to take the property at the sum named, I would give Quebec the option of purchase; and in case it should decline, I would make it obligatory upon Ontario to take the property and to pay Quebec its stipulated portion of the value thereof. This, I think, would be fair, and free from objection both from the Dominion and Quebec. If any party could claim the right to complain it would be Ontario.

I think I have now touched upon all points brought to the notice of the Arbitrators by the Counsel for Quebec, or for Ontario, or by the Dominion Government, as well as all matters and things referred or submitted to them by the B. N. A. Act. But before leaving the subject, I desire to make a few observations upon what would be the result of adopting the principle of an ordinary, universal or general partnership in taking the accounts between Upper Canada and Lower Canada and the division and adjustment of the debts, credits, properties and assets of Upper Canada and Lower Canada in conformity therewith.

It is stated that the principle of a universal partnership does not require that the capital contributed by each partner should be considered as equal, when by the amounts being stated it is manifest it is not equal in amount; and that in winding up such an association, discriminations may, according to law, be made in respect of such inequality of capital, in other words, that the partners may and should be compensated for any sum charged, or lien existing on the subject matter of the contribution of each partner. I deny every one of these propositions. No authority has been or can be produced in support of them or any of them. The moment the element of discrimination in capital, profits or losses, is introduced or admitted, the universal character of the association is destroyed, and it becomes a special partnership, and must be governed and treated according to those special agreements and conditions upon which it is founded. So obvious is this, that the Counsel for Quebec had too much regard for their reputation as lawyers to deny it. They admit broadly in their printed "*Factum*," that "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 specially the Province for which or in whose "interest it was incurred, and determine thereby the share of each."

The idea seems to be deep rooted in the minds of certain gentlemen, that in some way Quebec must have allowance for the alleged debt of Upper Canada at the Union in 1841. They will not rationally examine the ground upon which such a claim is based. They liken the alleged debt of Upper Canada to that of an individual entering into an ordinary partnership, and call it the private debt of Upper Canada; and as an individual in the case of an ordinary partnership would be bound to pay his own individual private debts contracted prior to the partnership, which, if paid by the joint concern, would be a proper charge against him by the partnership on dissolution, so they say the debt of Upper Canada having been paid from the joint revenue of the two Canadas united, now, on a separation of those Provinces, Ontario ought to assume so much of the debt of the late Province of Canada. There is a seeming analogy between the cases supposed, and its plausibility is calculated to impose upon the unthinking. In the first place, Upper Canada never had any *private debt or private property* or assets as contradistinguished from its *public debt and public property*. Its debt was mainly created for public works, and was a charge on all the revenues of the Province of Upper Canada, and these revenues, with all the public works, property and assets, by the terms of the Union Act of 1840, passed over to and became the property of re-united Canada subject to the payment of the charges made on the revenues by the Legislature of Upper Canada, that is, the debt of Upper Canada which Quebec now seeks to charge against Ontario. There was no reservation of anything with which this debt could be paid.

Upwards of twenty-six years pass away, and Upper Canada and Lower Canada, as united Canada, enter into a Union with Nova Scotia and New Brunswick. They were

permitted to bring in a debt on the new joint concern of $62,500,000, their expenditure on account of public works, amounting to about that sum. But they were obliged to hand over to the joint concern, not only the public works created by this expenditure, but also all the public revenues upon which the payment of this debt was chiefly based. In this arrangement, Lower Canada had as much interest and reaped as much advantage as Upper Canada. If Upper Canada had a debt at the Union, it also had assets to represent that debt which passed over to united Canada, at the Union in 1841, and which united Canada at Confederation, handed over to the Dominion, as a set-off to equivalent advantages surrendered to the Dominion by Nova Scotia and New Brunswick; and therefore, as any one must see, Lower Canada has realized the full benefit of the assets created by the debt of Upper Canada at the Union in 1841 by participating equally with Upper Canada, in all the advantages flowing from Confederation. If Upper Canada and Lower Canada, after having been re-united in 1841, had on the first day of July, 1867, separated, and been resolved into their original position, each taking back the revenues and assets it surrendered at the re-union, there might be some color for arguing that Upper Canada should take back along with these revenues and these assets, its debt incurred in respect of these assets. But instead of this, Lower Canada as well as Upper Canada, has given these all away in exchange for the position they were permitted to assume in the Dominion of Canada. How then can Quebec say on any principle whatever, be it that of universal, general, or ordinary partnership, or otherwise, that Upper Canada should assume the payment of a debt incurred for public works, equally as beneficial to Quebec as to Ontario, and actually transferred to the Dominion, as the joint contribution for their entering into Confederation, and in the advantages of which Quebec participates to the same extent as Ontario? This would be equivalent to Quebec taking the undivided half of the assets created by an expenditure which caused the debt of Upper Canada at the Union, and then asking Upper Canada to pay out of its own resources *all that debt*. In other words, it is equivalent to Quebec saying to Ontario: "we know we have reaped "the advantages equally with Upper Canada from public works, which caused a certain "debt; but this does not satisfy us: we object to paying anything on account of the debt, "Upper Canada must pay it all, and make us a present of the undivided moiety we had "in these public works, which on the joint account of both Upper Canada and Lower "Canada, have been sold and assigned to the Dominion of Canada."

But it has been triumphantly asked "suppose a separation of Upper Canada and "Lower Canada had taken place within six months or a year after the re-union of the "Provinces, would any one say that the debts of each Province at the re-union should "not be taken into consideration in adjusting the terms of the dissolution?" "And "does it make any difference in principle, whether the Union lasted only one year or "twenty-six years. I answer most unhesitatingly, that if a bare, naked, separation were to take place by which each Province would be restored to all its revenues, property and assets, the debt of each at the union, should most unquestionably be taken into consideration, whether the union had existed one or forty years. But unfortunately for the propounder of these questions, such a separation of the Provinces has not taken place. Neither Ontario nor Quebec has been restored to its former position. Their public works, their customs duties, their excise, and the power of levying *duties and rates*, except by direct taxation, have all been by them given over to the general government, in consideration of its assuming the debt which created their public works, and of the advantages each will derive from Confederation, and in the further consideration of certain subsidies and payments, even more liberal to Quebec than to Ontario. To argue as certain gentlemen do, is losing sight of this cardinal fact, by which they have been mystified, although they pretend to have given a great deal of attention to this question. What logic or sense, I ask, is there then in using platitudes about applying the principle of any form of partnership to the division and adjustment of the debts, credits, property and assets of Upper Canada or Lower Canada? If any such principle is to be applied, it must be one by which the accounts will be taken as in an ordinary partnership. We must first enquire into the debts and assets each Province brought into the common concern. We must next ascertain what each Province has contributed to the joint undertaking during its continuance, and what each has taken out of the common fund for its Province, and what has been paid away or objects provincial in their character, and alike beneficial to both Provinces. I have

never objected to such a principle and mode of settlement. I admit its difficulty, yet it is possible. Perfectly accurate results may not be attainable, yet it is quite possible to arrive so near the true state of the accounts as to render any discrepancy unimportant.

Not knowing but the arbitrators might adopt this principle, I went into the examination of the public accounts of the late Province during the existence of the Union. To avoid all questions which might be raised, I kept strictly within the official statements of the proper official departments. In this investigation I received every facility and great assistance from the officials in the Finance Department at Ottawa, to whom I take this occasion to express my obligations.

I classified the revenue under four heads, viz.: "to be subdivided" (including such items as were not divided in the Public Accounts), "Provincial" (meaning revenue from sources common to both Provinces), "Upper Canada" and "Lower Canada" (including items arising from local sources in Upper Canada and Lower Canada respectively). Taking the Customs duties collected at Montreal, Quebec, and

St. Johns	$55,852,647 90
Casual revenue	65,959 82
Bill Stamps	290,589 36
	$56,209,197 08

and dividing this sum equally between the two Provinces, Upper Canada, during the Union, paid into the Consolidated Revenue Fund 71,767,301 83
and Lower Canada 35,850,243 33

Difference in favour of Upper Canada $38,917,058 50

It is well known that for a long period after the Union of 1841, the largest portion of the goods entered at the Ports of Quebec and St. Johns, were consumed in Upper Canada, and afterwards Montreal became the chief port for the entry of goods consumed in Upper Canada. The proportion so paid at these ports, and sold to Upper Canada, can only approximately be ascertained. After consulting all the principal wholesale merchants in Montreal, and obtaining from them the approximate proportion—some giving three-fourths, others two-thirds, and none less than one-half—on an average, at least two-thirds to Upper Canada, I decided, giving Lower Canada the benefit of the doubt, that Upper Canada paid at least one half of these Customs duties, as I am sure any one who has taken any trouble to investigate the subject, will agree with me, is rather an under than an over estimate. As to the Casual Revenue and Bill Stamps, every one at all conversant with the subject, will admit that Upper Canada paid much more than the half.

Now if we turn to the local expenditure in Upper Canada and Lower Canada during the Union, we find that there was expended in Upper Canada $16,365,338.73, and in Lower Canada, $19,317,933.99, showing an expenditure in Lower Canada over that expended in Upper Canada of $2,952,598 26, which, added to the difference in revenue, makes the enormous balance, on taking the accounts between the two Provinces, on the principle on which they must be taken, if taken at all, of $41,869,653 76; and yet we are told by certain gentlemen in Lower Canada that they are entitled to charge against Ontario the debt Upper Canada had at the Union in 1841, while all the time Quebec gets half of the very assets in respect of which the debt was created, as I have already shown, and has drawn out of the Consolidated Revenue Fund nearly $12,000,000 more than Upper Canada!

In matters so important as that upon which I am now speaking, and one about which so much has been said, and such erroneous opinions seem to prevail, I will ask the indulgence of the arbitrators to present in detail, in tabular form, the data upon which the foregoing conclusions have been reached.

Statement A contains the revenue from the 10th of February, 1841, to the 30th of June, 1869.

Statement B contains the expenditure during the same period.

Statement C contains an abstract of the revenues for the same period.

Statement D contains an account of the gross revenues received from Crown lands, from the 1st of January, 1842, to the 1st of July, 1867.

Statement E contains the gross revenue received from woods and forests, including slide dues, from the 1st of January, 1842, to the 1st of July, 1867.

Statement F contains a comparative view of the ordinary general revenues and expenditures.

Any one can test the accuracy of these tables, by taking the Public Accounts of any one year, and tracing out each item, and where the published Public Accounts fail to give that full information required, by going to the Provincial books.

From the principle of division and adjustment which the arbitraters have adopted, I am aware that these remarks and the subject to which they relate, are, as the lawyers say, not within the record, and cannot have, and indeed, I do not intend them to have, any influence in the determination of the questions before the abitrators. They are made for the purpose of answering comments and statements which have been made outside of the court of arbitration altogether.

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Yea…	Excise.			…cts.	Fines, &c.			Total			Grand Total.		
d.	£	s.	d.	d.	£	s.	d.	£	s.	d.	£	s.	d.
184[illegible]	17,008	8	11½	1,[illegible]	1,396	1	3	10,599	6	0	296,597	1	3
184[illegible]	12,716	17	1¼	5,[illegible] 1	931	9	3½	28,190	5	6¼	360,614	19	1½
184[illegible]	11,307	17	3¾	7,[illegible] 7	881	13	2¾	21,802	3	5¾	330,304	2	8¼
184[illegible]	16,177	16	1¾	3,[illegible] 2	1,243	7	1¼	29,708	7	3¾	502,345	15	9
184[illegible]	15,85[illegible]	15	1½	7,[illegible] 7	1,195	2	2½	27,595	10	1¾	531,957	14	9
184[illegible]	7,926	6	0	9,[illegible] 1½	882	17	10	26,862	6	1¼	511,060	8	8¼
184[illegible]	17,738	7	2	9,[illegible] 9	1,091	15	3	27,555	13	10¼	509,391	11	5¾
184[illegible]	17,645	6	1	4,[illegible] 8	434	5	8	18,725	9	11¾	374,122	15	4
184[illegible]	1[illegible],208	0	0	1	821	1	8	1[illegible],321	4	1	515,453	8	2¾
185[illegible]	13,851	0	2	7½	191	10	11	16,521	18	1½	699,671	4	3
185[illegible]	11,072	10	5	6,[illegible] 7	626	7	2	23,169	10	2	841,225	19	10
185[illegible]	11,296	10	0	9,[illegible] 9½	1,183	10	0	21,441	1	0½	881,446	6	1
185[illegible]	11,956	18	2	11,[illegible] 10	735	5	5	26,894	8	8	1,195,495	5	11
185[illegible]	8,052	11	5	5,[illegible] 0	793	2	8	33,121	5	1	1,371,545	3	4
185[illegible]	8,029	11	0	3,[illegible] 2	567	4	[illegible]	25,905	16	11	1,069,160	1	11
185[illegible]	11,901	17	2	3,[illegible] 10½	623	1	8	29,336	13	1½	1,263,912	7	0
185[illegible]	13,166	2	10	3,[illegible] 10	809	11	1	26,087	16	3	1,103,586	12	9
Tota[illegible]	232,911	15	0¾	91,[illegible] 9	15,007	6	9¾	413,138	15	10¼	12,298,191	1	4

	Excise.		…cts.	Fines, &c.		Total		Grand Total.	
…ts.	$	cts.	cts.	$	cts.	$	cts.	$	cts.
or $…	931 617	01	[illegible]	60,029	36	1,652,555	18	49,192,764	28
185[illegible]	101,487	75	77	2,095	75	109,688	22	4,109,424	73
185[illegible]	167,370	82	[illegible]	6,109	58	189,987	28	5,395,430	85
18[illegible]	162,353	40	77	1,974	23	182,232	67	6,247,558	55
18[illegible]	207,302	58	80	4,975	95	144,415	64	6,267,830	37
18[illegible]	390,204	50	81	5,054	68	152,079	60	6,248,106	12
18[illegible]	553,172	82	65	2,748	68	222,756	87	7,501,718	90
18[illegible]	137,193	51	95	3,327	90	173,041	79	4,366,353	21
18[illegible]	1,057,785	67	34	4,553	77	225,533	37	8,442,802	46
18[illegible]	1,316,739	38	89	5,898	74	354,831	86	10,358,072	86
18[illegible]	[illegible]22,933	90	66	3,882	80	391,804	70	10,551,127	05
18[illegible]	56,104	22	74	353	90	37,367	31	362,451	89
[illegible]	1,131	78	…	…		180	00	2,210	27
To[illegible]	7 405 407	34	4[illegible]77	101,004	74	3,836,477	49	119,045,854	54

…eon
…for
… $745 15
…1 . 2,123 97
…7 . 600 73
…8 . 36 53
…5. . 3,656 89 — 7,163 27

… 7,530 22
… 6,097 89
… 546 81
… 8,886 66 — 23,061 58 — 30,224 85

36 | 7,405,407 34 | 4…

3,806,252 64

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Pub…
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men…
spec…

77	101,004 74	3,806,252 64	119,045,854 54

STATEMENT of t

Years.	TO BE SUBDIVIDED.					PROVINCIAL				
	Customs.	Territorial.	Casual	Bill Stamps.	Total.	Public Works.	Post Office.	Casual.	Interest and Premiums.	Sinking Fund.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1841...	185,525 8 7	40,778 18 5½	....	....	226,301 7 0½	10,595 9 0	.....	.....	.....	.....
1842	234,440 4 0	21,572 15 7½	821 8 5	....	256,834 8 0½	11,018 3 10	.....	2,826 1 9	....	.....
1843	169,962 1 1	27,223 7 10½	3,232 10 8½	....	200,417 19 8	23,292 6 0½	.....	.....	.....	.....
1844	327,964 19 8	5,180 18 6	98 17 4½	....	333,244 15 6½	17 482 9 10½	.....	.....	1,430 6 5	.....
1845	318,812 6 4	22,871 5 10	98 11 6	....	341,782 3 8	19,812 14 10½	.....	7,583 7 2	6,080 13 11	.....
1846	281,740 12 10	23,526 0 1	258 16 6	....	305,525 9 5	38,347 3 4	.....	5,079 11 8	2,525 16 5	.....
1847	270,118 4 5	25,757 15 6	77 16 8	....	295,953 13 7	32,698 11 7	.....	6,228 10 1	1,008 14 10	.....
1848	208,689 16 3	3,181 0 10	313 7 2	....	212,184 4 3	19,512 4 0	.....	1,329 12 2	168 18 2	.....
1849	267,323 4 8	9,568 14 7	51 11 5	....	276,943 10 8	47,801 11 7	.....	12,030 7 0	....	.....
1850	368,670 6 7	21,711 18 8	62 13 4	....	390,447 18 7	50,599 13 11	.....	3,562 18 4	....	.....
1851	451,629 5 3	19,961 5 10	80 11 8	....	471,671 2 9	58,425 1 4	.....	7,839 15 7	....	.....
1852	420,623 13 4	32,248 12 7	70 15 0	....	452,943 0 11	62,265 18 10	.....	19,561 17 10	....	.....
1853	558,878 2 6	64,147 16 10	97 15 5	....	623,123 14 9	66,076 6 3	.....	11,830 11 3	....	.....
1854	630,680 18 2	71,216 9 0	105 12 9	....	702,002 19 11	39,125 10 8	.....	27,311 4 2	....	.....
1855	354,503 18 6	76,330 0 5	113 5 5	....	431,037 4 4	28,605 2 7	.....	41,015 7 4	....	.....
1856	534 438 5 4	25,656 6 9	101 0 3	....	560,195 12 1	49,711 14 6	.....	75,627 14 4	....	.....
1857	516,856 16 0	34,555 11 9	925 11 4	....	552,338 2 1	32,995 5 6	37,024 14 9	43,590 0 0	....	.....
Total £	6,100,948 0 3	528,492 2 1¼	6,510 4 11	....	6,635,950 7 3¼	618,365 7 9	37,024 14 9	265,366 18 8	11,224 9 9	...
or $ ..	$ cts. 24,403,792 05	$ cts 2,113,968 42	$ cts. 26,040 99	$ cts.	$ cts. 26,543,801 46	$ cts. 2,473,461 55	$ cts. 148,098 95	$ cts. 1,061,467 73	$ cts. 44,857 95	$ cts
1858 ..	1,896,693 28	194,055 73	2,480 58	...	2,093,229 59	109,861 70	295,395 76	6,043 17	46,599 21	142,880 80
1859...	2,651,285 22	292,146 00	2,733 28	...	2,946,164 50	62,676 69	333,223 48	8,090 53	48,597 21	109,004 58
1860 ..	2,781,389 97	492,475 79	2,971 42	...	3,276,837 18	23,771 50	405,317 38	82,559 61	448,814 56	...
1861 ..	2,734,727 60	401,418 89	4,133 83	.....	3,140,280 32	50,179 70	457,724 85	602 51	489,304 91	...
1862 ..	2,876,697 35	494,088 37	4,046 90	...	3,374,832 62	55,416 06	408,717 21	2,542 44	394,745 94	...
1863 ..	3,417,032 86	603,028 07	5,108 63	.....	4,025,169 56	280,078 82	438,864 16	840 42	362,769 70	...
1864 ..	2,098,413 83	187,392 28	2,026 90	.....	2,287,833 01	19,305 61	426,053 40	475 49	88,236 82	...
1865 ..	3,826,039 46	830,892 30	3,129 69	104,028 16	1,764,089 61	147,168 75	540,809 74	1,049 28	154,342 79	...
1866 ..	4,782,585 18	628,530 22	5,369 50	88,688 06	5,505,172 96	166,219 98	621,936 42	276 83	158,641 56	...
1867 ..	4,359,824 83	776,379 31	7,918 10	97,873 14	5,241,995 38	143,832 64	548,235 45	1,083 62	87,527 36	...
1868 ..	21,166 27	15 00	....	....	24,181 27	....	193,103 22	3,239 86	26,909 38	.....
1869...	....	....	....	....	....	....	....	898 49	....	.....
Total	55,852,647 90	*7,014,390 38	65,959 82	290,589 36	63,223,587 46	3,531,973 00	4,817,480 02	1,169,169 98	2,351,350 42	251,885 3
Deduct excess of expenditure on account Public Works for year 1868						1,228 78	....	.....	....	.....
Total.....						3,530,744 22	4,817,480 02	1,169,169 98	2,351,350 42	251,885 3

* Territorial revenue is the net revenue as stated in the Public Accounts. There is no easy method of dividing this between Upper Canada and Lower Canada, as it appears for the several years of the Union in the Public Accounts. But the Departmental returns show from year to year the gross sums collected respectively in Upper Canada and Lower Canada from Crown Lands, Woods and Forests, Slide Dues, &c. The amounts shewn by these official returns (D and E) are therefore substituted for the above sum in the comparative statement (P) as showing accurately the relative proportions received from Upper Canada and Lower Canada respectively, on account of Crown Lands, Woods and Forests, Slide Dues, &c., during the Union.

A.

TATEMENT of the ordinary Revenues of the Province of Canada, and whence derived, from the Union in 1841, up to 30th Jun

INCIAL				UPPER CANADA								
Interest and Premiums.	Sinking Fund.	Premiums and Exchange.	Total	Customs.	Excise.	Public Works.	Casual	Bank Deposits.	Law Fees	Fines, &c.	Light Houses and Tonnage.
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
.....	.....	.....	10,595 9 0	27,494 1 6½	17,008 8 11½	1,793 16 6	508 11 7	568 1 8		1,181 18 0½	513 0 11
.....	.....	.....	13,844 5 7	29,724 17 2½	12,716 17 1½	5,351 11 4	3,123 5 9½	4,961 15 9		2,086 17 1½	560 15 8
.....	.....	.....	23,292 6 0½	52,864 2 10½	11,307 17 3½	7,919 1 0½	307 16 2	3,506 14 4		2,289 16 7½	596 5 2
1,430 6 5	.....	.....	18,912 16 3½	89,580 3 3	16,477 16 1½	3,961 1 2½	2,665 12 7	5,861 19 3		1,852 19 1½	604 1 10
6,080 13 11	.....	.....	33,426 1 11½	92,442 1 6	15,855 15 1½	7,520 15 9	2,531 14 10	7,683 11 9		2,428 11 7½	689 5 7
2,525 16 5	.....	.....	45,952 11 5	101,036 10 10	7,926 6 6	9,235 18 9½	1,152 12 11	9,372 0 11½		2,576 19 5½	819 12 11
1,008 14 10	.....	.....	39,035 16 6	105,981 7 8	17,738 7 2	9,866 16 1½	657 5 3	9,589 3 5		1,247 11 5½	865 19 1
168 18 2	.....	.....	21,010 14 4	90,037 19 10½	17,645 6 1	4,238 1 1	1,521 17 1	6,923 18 1		762 14 3	1,041 6 8
.....	.....	.....	59,831 18 7	142,651 14 0	1,620 8 0 0		1,611 7 4	6,354 15 5		491 7 6	1,009 9 7
.....	.....	.....	54,162 12 3	208,146 16 7	13,851 0 2	709 11 1	2,091 13 7	8,262 1 1½	3,960 12 11	691 3 3	1,020 17 1
.....	.....	.....	66,264 16 11	243,072 14 1	14,072 10 5	6,603 5 3	1,547 13 4	9,538 0 0½	1,052 12 2	827 7 9	937 6 10
.....	.....	.....	81,827 16 8	278,366 6 8	11,296 10 0	9,072 11 0	2,506 8 6	12,048 3 0½	1,648 0 5	1,296 4 10	.....
.....	.....	.....	77,906 17 6	418,417 17 1	14,956 18 2	11,700 6 2	2,575 5 9	14,532 10 6½	4,109 11 11	1,187 15 2	.....
.....	.....	.....	76,436 11 10	523,178 14 11	8,052 11 5	5,196 12 8	928 4 3	16,411 0 5	1,638 17 8	1,544 2 2	.....
.....	.....	.....	69,620 9 11	116,893 17 7	8,029 11 0	3,812 5 10	2,583 10 4	14,589 8 8	6,717 9 5	2,230 7 11	.....
.....	.....	.....	125,339 8 10	510,390 13 6	11,901 17 2	3,729 7 4	685 15 0	13,503 1 3½	6,914 1 8	1,921 11 0	.....
.....	.....	.....	113,610 0 3	372,081 19 2	13,166 2 10	3,986 18 0	285 4 6	12,488 1 3	8,318 19 3	1,373 9 10	.....
11,214 9 9	.....	.....	931,971 10 11	3,732,795 1 6½	232,911 15 0½	94,710 5 4½	27,349 18 9¼	156,230 19 5	43,120 8 5	25,927 2 6	8,688 1 1
$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
44,857 95	.....	.....	3,727,886 18	14,931,180 31	931,647 01	378,841 07	109,279 76	624,925 88	173,681 69	103,708 50	34,752 88
46,599 21	142,880 80	.....	600,780 64	1,116,766 37	101,487 75	6,338 90	1,436 18	31,076 64	12,176 22	6,480 55	.....
48,597 24	109,004 58	15,666 65	577,259 17	1,106,351 55	107,370 82	17,715 90	909 50	25,631 50	54,361 00	9,673 63	.....
448,814 56	.....	.....	960,463 05	1,576,225 97	102,353 10	2,047 13	735 00	39,512 15	10,879 98	6,271 1.	.....
489,304 91	.....	18,932 67	1,016,741 64	1,665,110 70	207,302 78		14,151 05	39,497 15	22,511 81	7,513 59	.....
394,745 94	.....	3,373 31	864,791 96	1,107,312 77	300,204 50	10,067 80	1,437 75	21,637 09	30,267 28	3,001 97	.....
362,769 70	.....	157,754 04	1,240,307 14	1,391,986 07	353,152 82	22,152 64	2,481 05	14,481 03	29,208 00	1,028 61	.....
88,236 82	.....	108,946 74	643,018 06	793,014 19	437,193 51	2,701 25	1,713 85	9,681 09	16,966 91	1,701 33	.....
154,342 79	.....	49,786 71	893,157 27	1,437,785 22	1,057,785 67	8,296 10	6,481 00	10,669 10	36,415 50	6,243 21	.....
158,644 56	.....	25,411 30	972,489 09	2,152,834 19	1,316,739 38	12,514 95	2,621 83	16,330 35	28,887 15	4,474 46	.....
87,527 36	.....	16,216 66	796,895 73	2,026,871 57	2,022,033 90	19,520 32	3,857 52	17,573 76	25,391 77	4,282 69	.....
26,909 38	.....	.....	223,252 46	22,183 59	56,101 22	.....	137 00	2,211 71	211 24	1,649 57	.....
.....	.....	.....	898 49	.....	1,131 78	.....	.....	.....	.....	.....	.....
2,351,350 42	251,885 38	396,088 08	12,517,946 88	29,930,622 36	7,405,407 34	480,199 66	115,579 19	852,288 78	511,087 91	159,029 44	34,752 88
.....	.....	.....	1,228 78					Deduct excess of expenditure on account of Public Works for 1849			816,023 79
.....	.....	.....						Do do do for 1868.			3,341 40
2,351,350 42	251,885 38	396,088 08	12,516,718 10								19,365 25
						19,365 25					
							306 27	Ditto on account minor revenues for 1868			306 27
											19,671 52
			Total.....	29,930,622 36	7,405,407 34	460,834 41	115,273 22	852,288 78	511,087 91	159,029 44	34,752 88

h June, 1869.

		LOWER CANADA.							Grand Total.
House and Lnage.	Total.	Customs.	Excise.	Public Works.	Casual.	Bank Imposts.	Fines, &c.	Total.	
s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
0 11½	49,097 19 2¾	1,419 3 11	7,112 0 0	372 0 10	.....	.....	1,396 1 3	10,599 6 0	296,597 1 3
15 8	38,446 0 0	1,221 10 8	19,208 3 4½	.....	1,813 14 10½	5,315 7 4	931 9 3½	28,490 5 6½	360,614 19 1½
5 2	84,791 13 6½	2,592 13 9½	13,820 7 7½	.....	3,413 6 3	1,094 2 7	881 13 2½	24,802 3 5½	330,304 2 8½
4 10	120,179 16 7	6,311 1 7½	15,147 14 5	.....	2,378 8 0	4,627 16 2	1,243 7 1½	29,708 7 3½	502,345 15 9
5 7	129,153 4 11½	7,707 13 8½	11,763 6 10	224 12 7	1,367 12 6	5,337 2 4	1,195 2 2½	27,595 10 1¾	531,957 14 9
12 11	132,720 1 8½	7,605 15 10½	9,584 15 11	692 3 4	1,769 13 1	6,797 6 1½	882 17 10	26,862 6 1¾	511,060 8 8½
19 1	145,946 10 6	6,348 8 9	11,897 0 6½	265 19 2	1,535 6 5	6,417 3 9	1,091 15 3	27,555 13 10½	509,391 14 5½
6 8	122,202 6 9½	2,704 0 9¾	8,540 13 3	246 8 6	1,250 19 1	5,549 2 8	434 5 8	18,725 9 11½	374,122 15 4
9 7	107,362 13 10	2,759 5 1	6,357 8 9	297 16 10	677 2 8	4,408 9 1	821 1 8	15,321 4 1	515,453 8 2½
17 1	238,725 1 0½	4,314 16 0	5,443 6 2	.....	1,222 4 5	5,050 0 7½	495 10 11	16,521 18 1½	699,671 4 3
6 10	280,651 9 10	7,505 17 9	7,064 12 10	.....	1,678 4 10	6,294 7 7	626 7 2	23,169 10 2	841,225 19 10
.....	322,254 7 5½	7,182 0 10	8,315 13 1	185 6 8	333 10 8	6,940 19 9½	1,183 10 0	24,441 1 0½	881,446 6 1
.....	167,570 5 9	8,706 9 10	8,389 14 7	88 4 0	453 6 0	8,521 8 10	735 5 5	26,894 8 8	1,195,495 5 11
.....	530,984 3 6	12,117 16 5	9,165 6 3	86 8 11	332 0 10	10,326 10 0	793 2 8	33,121 5 1	1,371,545 3 4
.....	181,896 10 9	6,255 16 4	8,788 1 8	191 3 10	233 9 6	7,870 1 2	567 4 5	23,905 16 11	1,009,460 1 11
.....	549,040 12 11½	1,719 19 2	14,303 16 8	51 2 3	3,999 3 7	8,639 9 10½	623 1 8	29,336 13 1½	1,263,912 7 0
.....	111,700 17 10	4,796 16 8	13,378 1 9	.....	747 0 11	6,356 5 10	809 11 1	26,087 16 3	1,103,586 12 9
8 4 4½	4,322,003 18 6	94,569 7 1½	175,380 3 8	2,701 6 11	23,205 3 7½	102,275 7 9	15,007 6 9¾	413,138 15 10¾	12,298,191 1 4
$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
3,752 88	17,288,015 10	378,277 42	701,520 74	10,805 39	92,820 72	409,101 55	60,029 36	1,652,555 18	49,192,764 28
.....	1,305,762 81	27,967 71	62,596 84	.....	2,896 15	14,131 77	2,095 75	109,688 22	4,109,424 73
.....	1,682,019 90	19,515 59	120,106 68	.....	2,626 60	11,628 83	6,109 58	189,987 28	5,395,430 85
.....	1,828,025 65	51,267 48	116,212 24	130 00	2,682 95	9,965 77	1,974 23	182,232 67	6,247,558 55
.....	1,966,389 77	8,111 63	115,513 26	.....	2,937 00	12,877 80	4,975 95	144,415 64	6,267,830 37
.....	1,863,929 16	.....	139,066 71	.....	3,174 00	4,784 81	5,054 68	152,079 60	6,248,106 12
.....	2,019,583 22	.....	214,691 04	.....	3,380 50	1,936 65	2,748 68	222,756 87	7,501,718 90
.....	1,263,007 16	.....	159,872 23	.....	8,623 61	1,218 05	3,327 90	173,041 79	4,366,353 21
.....	2,563,679 19	3,481 89	211,559 87	.....	4,657 50	1,280 34	4,553 77	225,533 37	8,442,802 46
.....	3,534,462 61	.....	344,799 08	148 92	3,493 32	494 80	5,898 74	354,834 86	10,358,072 86
.....	1,120,131 24	12,117 83	371,487 41	239 23	3,608 77	468 66	3,882 80	391,801 70	10,551,127 05
.....	82,530 36	1,542 65	35,329 67	.....	35 35	105 74	353 90	37,367 31	362,454 89
.....	1,131 78	.....	180 00	.....	.....	.....	.....	180 00	2,210 27
4,752 88	39,518,967 86	532,282 20	2,592,935 77	11,323 54	130,936 47	467,994 77	101,004 74	3,836,477 49	119,045,854 54
16,023 79					Deduct excess of expenditure on account of Public Works for				
3,341 46					1850		$745 15		
19,365 25					Do do 1851...		2,123 97		
306 27					Do do 1857...		606 73		
19,671 52					Do do 1858...		36 53		
				7,163 27	Do do 1865...		3,656 89	7,163 27	
	19,671 52								
34,752 88	39,439,296 34				Ditto Customs, 1862.....		7,530 22		
					Do 1863.....		6,097 89		
					Do 1864.....		546 81		
					Do 1866.....		8,886 66		
		23,061 58						23,061 58	
									30,224 85
									3,806,252 64
	Total.....	509,220 62	2,592,935 77	4,160 27	130,936 47	467,994 77	101,004 74	3,806,252 64	119,045,854 54

B.

SUMMARY of ordinary Expenditure from the Union in 1841 up to 30th June, 1869.

YEAR.	PROVINCIAL.	UPPER CANADA.	LOWER CANADA.	TOTAL.	REMARKS.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
1841	127,657 8 10	35,529 10 4	76,849 13 0	240,036 12 2	
1842	234,656 10 11½	52,623 12 8¾	73,981 3 4½	361,261 6 2½	
1843	188,291 12 0	37,342 18 7	58,541 12 0	284,176 2 7	
1844	290,085 8 6½	78,100 5 7	71,991 10 10	440,177 4 11½	
1845	316,711 9 8	70,212 10 7	136,902 10 2	523,826 10 5	
1846	306,359 2 6	84,669 4 4	116,592 11 3	507,620 18 1	
1847	279,708 2 2	68,133 17 3	110,179 17 8	458,021 17 1	
1848	309,888 1 6	64,058 19 11	100,544 2 1	474,491 3 6	
1849	327,849 13 1	67,979 11 7	79,857 18 10	475,687 3 6	
1850	338,568 13 10	80,714 5 4	129,823 6 8	549,106 5 10	
1851	457,966 7 1	87,302 3 7	130,991 4 9	676,349 15 5	
1852	620,833 15 0	81,600 3 2	175,859 12 8	881,293 10 10	
1853	484,079 12 3	123,027 7 9	153,510 7 5	760,617 7 5	
1854	614,494 4 3	122,870 9 10	169,183 14 7	906,548 8 8	
1855	721,288 3 11	125,235 9 0	182,515 18 5	1,029,039 11 4	
1856	849,122 12 6	121,805 8 9	190,586 2 10	1,161,514 4 1	
1857	861,812 19 11	179,012 0 3	211,459 0 8	1,252,314 0 10	
Public Works	3,904,258 6 2	274,288 1 0	237,821 0 8	4,416,367 7 10	Constructed from loans between 1841 and 1857, not charged in Tables of Public Accounts.
Total	11,233,632 3 3½	1,757,625 19 6¾	2,407,191 7 10¼	15,398,449 10 8½	
	$ cts.	$ cts.	$ cts.	$ cts.	
Or equal to	44,934,528 66	7,030,503 91	9,628,765 58	61,593,798 15	
Table A and B of 1857	268,610 37	14,517 73	44,778 00	327,906 10	
1858	6,890,767 61	833,385 39	941,148 58	8,665,301 58	
1859	8,877,072 46	1,055,961 49	889,612 79	10,822,646 74	
1860	31,977,502 79	936,475 85	960,661 19	33,874,639 83	
1861	10,133,883 87	939,462 57	1,000,191 17	12,073,537 61	
1862	7,121,577 10	1,021,320 70	1,091,131 95	9,231,029 75	
1863	11,545,006 97	952,332 77	941,011 72	13,438,551 46	
1864	6,490,469 04	285,183 72	375,169 92	7,150,822 68	
1865	9,190,791 25	1,017,786 42	1,092,514 70	11,301,102 37	
1866	8,883,948 13	1,052,963 60	1,067,186 12	11,004,097 85	
1867	10,352,627 67	1,135,512 35	1,193,020 61	12,681,160 63	
1868	1,219,012 85	82,768 61	90,421 10	1,392,202 56	
1869	13,858 69	6,953 62	2,320 56	23,132 87	
Total	157,899,657 16	16,305,338 73	19,317,933 99	193,582,930 18	

C.

ABSTRACT of the Ordinary Net Revenues of the Province of Canada, from the Union in 1841 to the 30th June, 1869, showing the contributions thereto of Upper and Lower Canada respectively, their joint contributions, which are approximately divisible, and such as are regarded "Provincial" or common to both.

Heads of Revenue.	Upper Canada.	Lower Canada.	To be Subdivided.	Provincial.
	$ cts.	$ cts.	$ cts.	$ cts.
Customs	29,950,622 36	509,220 62	55,852,647 90	
Territorial			7,011,599 38	
Casual	116,273 22	130,936 47	15,95 2	1,169,169 98
Bill Stamps			290,589 36	
Public Works	160,834 41	1,160 27		3,530,741 22
Interest on Deposits				2,351,350 42
Sinking Fund and Gains				251,885 38
Premium and Exchange				396,088 08
Excise	7,105,407 31	2,592,935 77		
Bank Imposts	852,288 78	107,994 77		
Law Fees	511,087 91			
Fines and Forfeitures	170,029 41	101,004 71		
Light House and Tonnage Duty	31,792 88			
Post Office				1,817,480 02
Total	39,199,296 31	3,806,252 64	63,223,587 46	12,516,718 10

GRAND TOTAL.

Upper Canada	$39,199,296 31
Lower Canada	3,806,252 64
To be subdivided	63,223,587 46†
Provincial	12,516,718 10
Total	$119,045,854 54

* This amount is made up from the Public Accounts, and is the net revenue. As it stands in the Public Accounts it is not easy to divide it, but in the official statements D and E, containing the gross receipts from Crown Lands, Woods and Forests, Slide Dues, &c., made up in the Crown Lands Department, the gross receipts are accurately divided, and the relative proportions received from Upper Canada and Lower Canada are stated with mathematical accuracy. Therefore, the gross receipts as shown by the official returns D and E, are substituted for the Territorial revenue in the above abstract.

† In accordance with the previous note, this sum is therefore omitted from the comparative statement F, and the exact amount received from Upper Canada and Lower Canada, on account of Crown Lands, Woods and Forests, Slide Dues, &c., as shown by official returns D and E, substituted in its stead.

D.

STATEMENT of Amounts received on account of Crown Lands, from 1st January, 1842, to 30th June, 1867.

YEAR.	CANADA EAST.		CANADA WEST.	
	$	cts.	$	cts.
1842	52,355	02	11,014	60
1843	9,071	16	118,429	32
1844	16,857	67	99,208	76
1845	59,421	78	215,290	87
1846	49,211	10	111,601	38
1847	27,863	96	122,000	16
1848	6,941	37	68,015	08
1849	5,813	27	16,290	88
1850	23,534	11	15,068	21
1851	7,824	30	138,306	10
1852	5,545	64	15,529	88
1853	7,693	88	70,683	16
1854	16,194	92	148,048	32
1855	13,199	82	252,773	13
1856	9,330	12	164,759	36
1857	12,078	82	165,318	74
1858	13,553	85	100,819	10
1859	33,193	52	136,557	16
1860	78,901	60	199,855	15
1861	73,915	69	276,170	10
1862	55,581	94	223,315	20
1863	75,981	02	171,021	09
1864	86,711	78	166,661	63
1865	87,657	95	333,529	52
1866	69,726	67	196,836	38
1867 ½ year	37,351	95	182,220	61
	936,130	94	3,875,373	91

THOS. H. JOHNSON,

Assistant Commissioner.

E.

STATEMENT of amount received on account of Woods and Forests, in the Provinces of Ontario and Quebec respectively, from 1st January, 1842, to 30th June, 1867, including Slide Dues.

YEAR.	ONTARIO.	QUEBEC.	TOTAL.
	$ cts.	$ cts.	$ cts.
1842	101,011 97	53,324 02	154,335 99
1843	64,603 45	48,804 17	113,207 62
1844	63,938 20	39,574 14	103,512 34
1845	68,870 48	77,746 16	146,616 94
1846	101,009 71	74,364 76	175,374 47
1847	87,351 35	77,788 01	165,139 36
1848	68,687 12	49,558 57	118,245 69
1849	73,946 27	31,351 51	105,297 78
1850	71,619 96	67,427 21	139,047 17
1851	86,686 11	55,042 55	141,728 66
1852	114,732 69	111,945 31	226,678 00
1853	114,891 07	149,882 77	264,776 84
1854	107,564 24	93,579 08	201,143 32
1855	150,541 18	160,867 05	311,408 23
1856	121,663 49	120,653 43	242,316 92
1857	199,053 14	190,580 09	389,633 23
1858	158,739 64	147,243 89	305,983 53
1859	155,868 21	154,837 45	310,705 66
1860	171,231 90	190,810 13	362,042 03
1861	151,645 29	149,184 05	300,829 34
1862	185,811 54	174,209 65	360,021 19
1863	228,511 06	216,433 16	444,944 22
1864	160,524 50	141,736 32	302,260 82
1365	211,050 10	190,976 32	402,026 42
1866	222,401 23	167,737 15	390,138 68
1867	16,276 14	67,603 66	113,879 80
Total	3,288,033 04	3,003,261 21	6,291,294 25

THOS. H JOHNSON,
Assistant Commissioner.

F.

COMPARATIVE Statement of the Contributions to the ordinary General Revenue of the late Province of Canada, by Upper Canada and Lower Canada, from the Union on the 10th of February, 1841, to Confederation on the 1st of July, 1867.

	Upper Canada.	Lower Canada.
	$ cts.	$ cts.
Abstract A.	39,199,296 31	3,806,252 64
Do to be subdivided:—		
Customs duties collected at Montreal, Quebec and St. John's	855,852,647 90	
Casual revenue	65,959 82	
Bill stamps do	290,589 36	
Divided equally	56,209,197 08	28,104,598 54	28,104,598 54
Receipts from Crown Lands, per Departmental Return Statement D.	3,875,373 91	936,130 94
Receipts from Woods and Forests, including slide dues, &c., per Departmental Return Statement E.	3,288,033 01	3,003,261 21
	74,767,391 83	35,850,243 33

COMPARATIVE Statement of the ordinary Expenditure of the late Province of Canada upon local objects in Upper Canada and Lower Canada, from the Union in 1841 to Confederation on the 1st of July, 1867.

	Upper Canada.	Lower Canada.
	$ cts.	$ cts.
Per Abstract B.	16,365,338 73	19,317,933 99

Before finally leaving the question of the award, permit me to say that I think it might be well for the arbitrators definitely to assign to each Province the special or trust funds belonging to each.

Although I do not conceive this to be absolutely necessary, still, as that point has been mooted, and as there may be a doubt in some minds (there is none in mine), I would

suggest the propriety of putting the matter at rest by formally giving to each Province that which is already its own, namely, its special or trust funds.

It being six o'clock the arbitrators adjourned, to meet on Monday, at 12 o'clock, for deliberation.

MONDAY, 29th August, 1870.

The arbitrators met pursuant to adjournment, and after some time spent in deliberation, they announced to Mr. Wood "that, under all the circumstances they were not disposed to entertain and include in the Municipal Loan Fund indemnity account to Upper Canada the two items "*Capital of Jesuits Estates, Sup. Ed. L. C.*, $92,583.83," and "*Amount of Capital of the Seigniories of St. Sulpice, claimed by the L. C. Municipalities Fund*, $196,719.66." It was, at Confederation in making up the Seignorial accounts, both in justice and according to the Statute, when these two items were added to the capital of the Seigniories, an Quadra permanent and unconditional charge on the Consolidated Revenue Fund, that a corresponding amount ought to have been carried to the credit of the Upper Canada Municipal Loan Fund indemnity account. At all events there can be no doubt that this should have been done as respects the item $196,719.66. The other item admits of argument. But as this change would necessitate a revision of the whole account as it stands in the Provincial books, and would in the end, as has been shown by the auditor, make but a small annual sum in favour of Ontario, the arbitrators are of opinion that it is inadvisable to make the revision and correction proposed by Mr. Wood.'

As to the capital of the local sources of revenue, under the Act of 1854, amounting to $834,144 10, and the difference in the estimated and actual receipts from these revenues from 1854 to 1867, the arbitrators are of opinion that in strict justice, and according to the obvious meaning of the Statute, in making up the accounts at Confederation a sum equal to these two items should have been carried to the credit of the Upper Canada "*Equivalent*," and hence to the Upper Canada Building Fund, as provided by the express terms of the Act. But that was not done; and it now remains for the arbitrators so to treat these two items as to do justice between the parties, in so far as they can without disturbing the Seignorial accounts as they stand in the Provincial books. Although it will by no means give Upper Canada what it is entitled to under the Statute, for it is entitled, as has been shown, to have the sum of these two items carried direct to the credit of the "*Equivalent*" to Upper Canada, yet as it will afford a partial equivalent, under all the circumstances the arbitrators are of opinion that these two items should be included in the debts created for local purposes in Quebec.'

The arbitrators then requested Mr. Wood to revise and hand to them statements of the debts created for local purposes in Ontario and in Quebec respectively; also statements of assets to be assigned to each Province; as also statements of special or trust funds belonging to each Province.

The Court of Arbitration adjourned to Tuesday, to meet at 12 o'clock.

TUESDAY, 30th August, 1870.

The arbitrators met pursuant to adjournment, when Mr. Wood laid before the arbitrators the following statements:—

DEBTS CREATED FOR LOCAL PURPOSES IN QUEBEC, FORMING PART OF THE DEBT OF THE LATE PROVINCE OF CANADA.

1. *Aylmer Court House, six per cent Debentures*	$2,000 00	
Aylmer Court House Account Current	1,239 70	
		$3,239 70

In P. A., 1867, p. 1½, "Indirect Debt," Asylum Debenture Account is put down at $21,674 99, of which $19,674 97 are eight per cent, and are not debentures of the Province, and for which the Province is not liable, except to see to the due application of the moneys actually received by or in the fees on the credit of which they were issued. But of the $21,674 97, $2,000 00 are Provincial debentures, and the late Province having assumed their payment, Aylmer Court House owes this amount to the late Province, and it is therefore an asset to that amount. There is also an account current of $1,239 70, being money advanced for arrears of interest on these debentures. For this last item see P. A., 1867, p. 3, under "Miscellaneous Accounts," and as to both items see Mr. Langton's Statement of Assets furnished the arbitrators. The Provincial debentures were issued under 18 Vic. c. 161, and the eight per cent debentures under 12 Vic. c. 112, Mr. Langton's Statement of Assets No. 2.

2. *Montreal Court House Debenture Account*..... .....$95,600 00		
Montreal Court House, Account Current..... 18,996 21		
		114,596 21

See P. A., 1867, p. 1½, "Indirect Debt," for debentures. These are Provincial debentures assumed by the Province, and the Court House owes this amount to the late Province, and therefore it is an asset. For the account current see P. A., 1867, p. 3 under "Miscellaneous Accounts," $18,996 21. This is an advance by the late Province to the Montreal Court House, and is a debt owing by it to the late Province, and therefore an asset. Mr. Langton's Statement of Assets, No. 5.

3. *Kamouraska Court House, Account Current*...	201 27

See P. A., 1867, p. 1½, "Indirect Debt." All debentures issued on account of this Court House were eight per cent, and the Province is not liable for them, except to see that the money collected in law fees, &c., is duly applied. But the Province advanced a small sum on account, which makes the account current, namely, $201 27. See P. A., 1867, p. 3, under "Miscellaneous Accounts," and Mr. Langton's Statement of Assets, No. 8.

4. *Royal Institution (McGill College)*.....	7,790 60

See P. A., 1865, p. 5, under "Miscellaneous Accounts." See also Mr. Langton's statement of Assets, furnished the arbitrators, No. 13.

5. *Consolidated Municipal Loan Fund, Lower Canada Capital Account*..... ..... $2,428,140 00		
Less Sinking Fund, ... 271,452 86		
		2,156,687 14
Consolidated Municipal Loan Fund, Interest Account.....		782,712 83

See P. A., 1867, p. 3, under "Miscellaneous Accounts," and particularly see Mr. Langton's Statement of Assets, furnished the arbitrators, No. 16.

6. *Lower Canada Legislative Grant*	28,194 73

An advance made to Lower Canada education. A debt from education to the Province, and included in the debt of the late Province. See P. A., 1867, p. 3, under "Miscellaneous Accounts." See also Mr. Langton's Statement of Assets, No. 19.

7. *Quebec Fire Loan* 264,254 65

See P. A., 1867, p. 3, under "Miscellaneous Accounts;" also, Mr. Langton's Statement of assets, No. 20.

8. *Temiscouata Advance Account* 3,000 00

See P. A., 1865, p. 5, under "Miscellaneous Accounts;" also, Mr. Langton's Statement of assets, No. 21.

9. *Education, East* 290 10

See P. A., 1867, p. 3, under "Miscellaneous Accounts;" also, Mr. Langton's Statement of assets, No. 23.

10. *Building and Jury Fund, Lower Canada* 116,175 51

See P. A., 1867, p. 3, under "Miscellaneous Accounts;" also, Mr. Langton's Statement of assets, No. 24, Con. Stat. L. C., c. 109, sec. 15, 23 Vic. c. 67.

11. *Municipalities Fund, Lower Canada* 184,244 33

See P. A., 1867, p. 3, under "Trust Funds." See also, Mr. Langton's Statement of Assets, No. 25. See Return to the House of Commons, 9th June, 1869, entituled "A Statement showing the amount for which the late Province of Canada became liable on account of the redemption of the Seigniorial Tenure, and of the amounts which Upper Canada and the townships separately received a compensation." It will be found "in the Sessional Papers of 1869, House of Commons Paper 64. See 18 Vic. c. 2.

12. *Lower Canada Superior Education Income Fund* $230,681 46
Interest on Hamilton debentures 3,600 00
234,281 46

See P. A., 1867, p. 3, under "Trust Funds." See also, Mr. Langton's Statement of Assets, No. 26, for interest on investment $3,600

13. *Seigniorial Fund of* 1854, *based on Tavern Licenses* $834,444 40
14. *Seigniorial Fund of* 1854, *charged on Consolidated Revenue Fund* 600,000 00
1,434,444 40

(13.) See Return to House of Commons mentioned in No. 11; also, Act 18 Vic. c. 3, sec. 18. At Confederation the special fund failed altogether, or rather Lower Canada got back the source of revenue which produced the fund, and this capital is charged in the debt of the late Province. Therefore it is charged in the local debts of Lower Canada.

(14.) The same references as in 13.

15. *Seigniorial Fund, short paid to* 1867 ..... 80,201 00

The special fund fell short on an average, from 1854 to 1st July, 1867, annually of £4,395 50, which, with interest half yearly, would, from 1854 to 1867, amount to $80,201. This, under the latter part of section 18, 18 Vic., c. 3, is a proper charge in the Local debts of lower Canada.

16. *Charges on Consolidated Revenue Fund under Seigniorial Act of* 1859, *as under:*—

Capital of General Seigniories		$2,776,380 36
Add Seigniories of St. Sulpice	$336,719 66	
Less—charged on Consolidated Revenue Fund, until Municipalities (L. C.) Fund could pay	196,719 66	140,000 00
Add Lower Canada Superior Education Jesuits Estates		92,583 83
		$3,008,964 19
17. *Less Balance Fund*, 1854		697,824 97
		2,311,139 22
18. *Indemnity to Townships, Lower Canada*		756,710 00

(16.) See P. A., 1867, part 2, p. 91; see Mr. Langton's Arbitration, p. 2; see also 22 Vic. s. 11, c. 18, subsec. 3, latter part.

(17.) See P. A., 1867, part 2, p. 91; see Mr. Langton's Arbitration, p. 2. See 18 Vic. c. 3, sec. 18; 22 Vic. c. 18, sec. 7.

(18.) See P. A., 1867, part 2, p. 91; see Mr. Langton's Arbitration, p. 2; see 22, Vic. c. 18, sec. 21.

$8,778,792 55

DEBT CREATED FOR LOCAL PURPOSES IN ONTARIO, FORMING PART OF THE DEBT OF LATE PROVINCE OF CANADA.

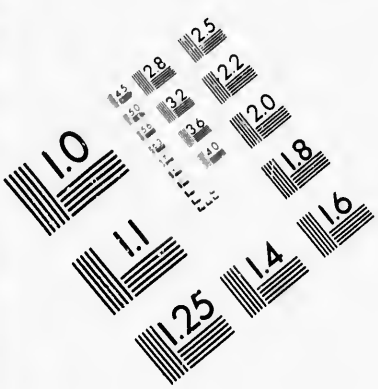
1. *Upper Canada Building Fund, Debenture Account:*

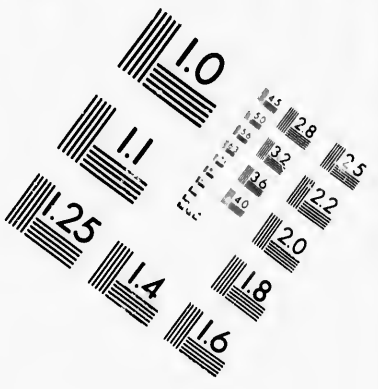
Lunatic Asylum	$15,200 00	
Normal School	6,000 00	
Lunatic Asylum	15,600 00	
		$36,800 00

See P. A., 1867, p. 11½—"Indirect Debt," being Provincial debentures issued under 9 Vic. c. 61; 12 Vic. c. 31, and 13 & 14 Vic. c. 2 and 68, on the credit of the Upper Canada Building Fund, and the payment thereof assumed by the Dominion, and charged in the debt of the late Province of Canada, and the amount thereof becomes a debt from the Upper Canada Building Fund, and hence an asset.

2. *Law Society of Upper Canada Debenture Account*	$16,600 00	
Law Society of Upper Canada Debenture Act, Current	140 015 61	
		156,015 61

See P. A., 1867, p. 11, under heading "Indirect Debt," for debentures, and for account current—see P. A., 1867, p. 3, under heading "Miscellaneous Accounts," item—Law Society Upper Canada, $140,015 61. The debentures were issued by the Province, under 9 Vic. c. 3, on the credit of the Law Society of Upper Canada, and have been assumed by the Dominion, and charged in the debt of the late





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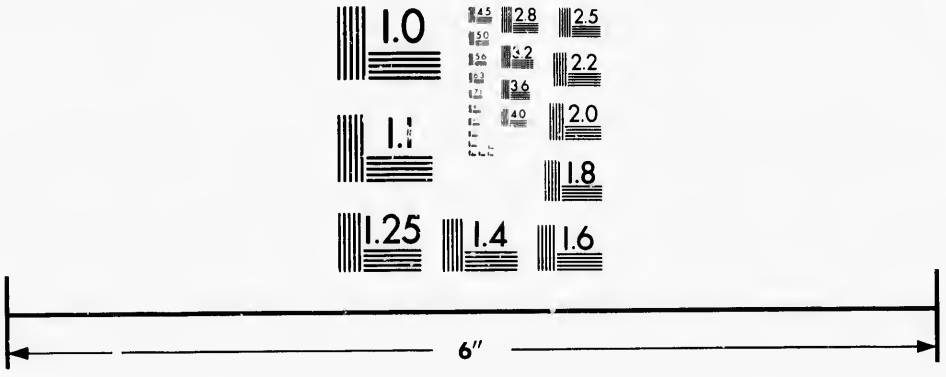

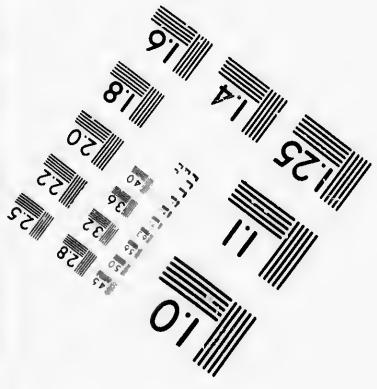

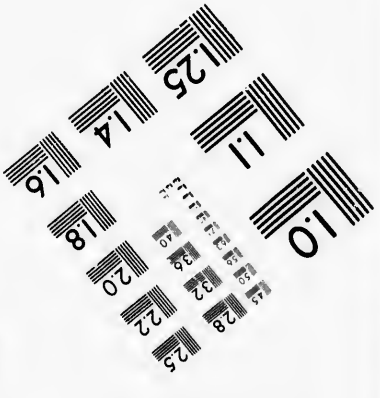

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Province, and therefore the Law Society owes this amount to the late Province, and the amount thereof becomes an asset. The "Account Current" is for loans and advances made by the late Province, to and on the credit of the Law Society of Upper Canada, and thereby to that amount increased the debt of the Province, and as the Law Society owes the amount to the Province, it also becomes an asset.

3. *The Consolidated Municipal Loan Fund of Upper Canada*.....	$7,300,000 00		
Less at credit of Sinking Fund.....	429,548 63		
		6,870,451 37	
Less capital of Seigniorial Indemnity Account, as follows:			
Capital of General Seigniories.....	2,776,380 36		
Seigniories of St. Sulpice...$336,719 66			
Less charged to Municipalities Fund, L. Canada... 196,719 66	140,000 00		
	2,916,380 36		
Less—Balance of fund, 1854	697,821 97		
		2,218,555 39	
			4,651,895 98
Interest on above Municipal Loan Fund Capital..... ...	3,517,084 26		
Less Interest on Capital of Indemnity account.....	1,376,843 85		
			2,140,240 41

For the capital of this fund and Sinking Fund, and the arrears of the interest on the capital—See P. A., 1867, pp. 2 and 3, under heading "Miscellaneous Accounts." The Seigniorial Act of 1859, provided that a payment equal to six per cent per annum, on the capital of the Seigniories, should be made half-yearly, on the first days of January and July in each year, and that a like sum should be carried to the credit of the Municipal Loan Fund, U. C., for such payments made over and above the capital of the fund of 1854. The capital of the general Seigniories, according to the Public Accounts, 1867. Part II. p. 91, over and above the fund of 1854 is $2,218,555 39.

On the 30th June, 1867, the equivalent of the half-yearly payments made to the Seigniors on this capital, amounts, with interest thereon at six per cent with half-yearly rests, to the sum of $1,376,843.85.

Confederation put an end to the equivalent payments, as the Municipal Loan Funds in Upper Canada and Lower Canada were given up to the Provinces of Ontario and Quebec conjointly. In ascertaining how this fund stands in relation to Lower Canada, it becomes necessary to deduct the capital of the indemnity account from the capital of the Municipal Loan Fund, and the sum of the interest on the capital of the indemnity account, computed as I have mentioned, from the sum of the arrears of interest on the capital of the Municipal Loan Fund. This, it will be observed, has been done, leaving $4,651,895.98 balance of capital, and $2,140,240 41 balance of interest, making a total amount of local debt of $6,792,136.39, and consequently a corresponding asset. Injustice is done to Upper Canada in these figures, in regard to two sums, namely, Seigniories of St. Sulpice, and Jesuits Estates—Superior Education. In respect of the former, Upper Canada has indemnity for only $140,000, while, as a matter of fact, the whole $336,719 66 has been permanently charged against she Consolidated Revenue Fund, and also charged in the debt of the late Province of Canada, as also has the $92,583 83 Jesuits' Estates carried to the credit of Superior Education, Lower Canada. See Sessional Papers, 1869—Paper No. 64.

The capital of the indemnity account, according to the Statute, should have been $2,507,858 88, as follows:

By Public Accounts	$2,218,555 39	
Amount charged against Lower Canada Municipalities Fund but interest to be paid out of Consolidated Revenue Fund, till the former Fund could cover it. It will never be able to pay it, and hence it is permanently charged on Consolidated Revenue Fund, and in the debt of the late Province	196,719 66	
Amount of capital of Jesuits Estates carried to the credit of Superior Education, Lower Canada	92,583 83	
	2,507,858 88	

4. *Agricultural Society of Upper Canada* 4,000 00

This was a loan by the late Province to the Agricultural Society of Upper Canada, and is a debt from the Society to the late Province, and therefore an asset. See P. A., 1867, page 3, under heading "Miscellaneous Accounts."

5. *University Permanent Fund* 1,220 63

This item arose in this way. The Government of the late Province, through the Commissioner of Public Works, ordered a ditch to be made on the University Grounds without authority. It was objected to by the University authorities, and stopped, and I believe was filled up. This is for that expenditure. It was charged against the University improperly, and is repudiated by the University. It does not appear in the published Public Accounts of 1867, but will be found in those of 1865, from which schedule 4 to B. N. A. Act was taken; per P. A., 1865, p. 5, under heading "Miscellaneous Accounts.' Nevertheless, it being found in the said schedule, it is included in the expenditure for local purposes in Upper Canada, whereby the debt of the late Province was increased by this amount.

6. *Equivalent to Upper Canada* under Seigniorial Act, 1854 $600,000 00

7. *Indemnity* *do* 1859 2,218,555 39

2,818,555 39

For explanation of item *No.* 6, see 18 V. c. 3, secs. 17, 18, 19. It forms part of the item, "Building Fund Upper Canada," P. A., 1867, part 2, p. 2, under heading "Trust Funds." See, also, Statement No. 2, P. A. 1866; also Statement 23, P. A. 1867, part 2, p. 16.

For explanation of item *No.* 7, reference is made to the observations under item No. 3.

$9,808,728 02

Assets to be Assigned to Ontario.

Debt from the Upper Canada Building Fund	$ 36,800 00
Do from the Law Society, U. C	156,015 61
Do from the Con. Mun. Loan Fund, U. C	6,792,136 39
Do from the Agricultural Society, U. C	4,000 00
Do University Permanent Fund	1,220 63
	$6,990,172 63

ASSETS TO BE ASSIGNED TO QUEBEC.

Debt from Aylmer Court House	$ 3,239 70
Do from Montreal Court House	114,596 21
Do from the Kamouraska Court House	201 27
Do from the Royal Institution (otherwise McGill College)	7,790 00
Do Municipal Loan Fund, L. C.	2,939,429 97
Do Superior Education, L. C. (Legislative Grant)	28,494 73
Do Quebec Fire Loan	264,254 65
Do Temiscouata Advance Account	3,000 00
Do Education (East)	290 10
Do Building and Jury Fund, L. C.	116,475 51
Do Municipalities Fund, L. C.	484,244 33
Do L. C. Educational Income Fund	234,281 46
Do Montreal Turnpike Trust	188,000 00
	$4,384,297 93

SPECIAL OR TRUST FUNDS BELONGING TO AND TO BE ASSIGNED TO ONTARIO.

Upper Canada Grammar School Fund.
Upper Canada Building Fund.
Upper Canada Municipalities' Fund.
Widows' pensions and uncommuted stipends, Upper Canada, subject to the payment of legal charges thereon.
Upper Canada Grammar School Income Fund.
Upper Canada Land Improvement Fund.
Balances of Special Appropriations in Upper Canada.
Surveys ordered in Upper Canada before the 30th June, 1867.
Amount paid by Ontario to Canada Land and Immigration Company.

SPECIAL OR TRUST FUNDS BELONGING TO, AND TO BE ASSIGNED TO QUEBEC.

Lower Canada Superior Education Fund.
Lower Canada Superannuated Teacher's Fund.
Lower Canada Normal School Building Fund.
Widows' pensions and uncommuted stipends, Lower Canada, subject to all legal charges thereon.
Balances of special appropriations in Lower Canada.
Surveys ordered in Lower Canada before June 30, 1867.

AWARD

OF THE

ARBITRATORS.

MADE ON THE THIRD DAY OF SEPTEMBER, 1870.

TO ALL TO WHOM THESE PRESENTS SHALL COME—

The Honorable John Hamilton Gray, of the city of St. John, in the Province of New Brunswick, and the Honorable David Lewis Macpherson, of the city of Toronto, in the Province of Ontario, *send greeting:*

Whereas by the British North America Act 1867, it is enacted that the division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada;

And whereas, the said John Hamilton Gray was duly chosen under and in accordance with the provisions of the said Act as arbitrator by the Government of Canada, the said David Lewis Macpherson by the Government of Ontario, and the Honorable Charles Dewe Day, of Glenbrooke, in the said Province of Quebec, by the Government of Quebec;

Now, therefore, the said arbitrators having taken upon themselves the burden of the said arbitration, the said John Hamilton Gray and David Lewis Macpherson being a majority of the said arbitrators *do* award, order and adjudge of and upon the premises as follows, that is to say:

I. *That* the amount by which the debt of the late Province of Canada, exceeded on the thirtieth day of June, one thousand eight hundred and sixty-seven, sixty-two millions five hundred thousand dollars, shall be and is hereby divided between and apportioned to, and shall be borne by the said Provinces of Ontario and Quebec respectively, in the following proportions, that is to say,—the said Province of Ontario shall assume and pay such a proportion of the said amount, as the sum of nine millions eight hundred and eight thousand seven hundred and twenty-eight dollars and two cents, bears to the sum of eighteen millions five hundred and eighty-seven thousand five hundred and twenty dollars and fifty-seven cents; and the said Province of Quebec shall assume and pay such a proportion of the said amount as the sum of eight millions seven hundred and seventy-eight thousand seven hundred and ninety-two dollars and fifty-five cents, bears to the sum of eighteen millions five hundred and eighty-seven thousand five hundred and twenty dollars and fifty-seven cents.

II. That the assets hereinafter in this clause enumerated shall be and the same are hereby declared to be the property of and belonging to the Province of Ontario, namely:

1. Debt from the Upper Canada Building Fund to the late Province of Canada, (enumerated in the fourth schedule to the said British North America Act, 1867, as "Upper Canada Building Fund, Lunatic Asylums, Normal Schools,")—Lunatic Asylums $30,800, Normal Schools $6000, $36,800 00

2. Debt from the Law Society Upper Canada to the late Province of Canada..... 156,015 61
3. Debts to the late Province of Canada under the Consolidated Municipal Loan Fund of Upper Canada.....6,792,136 39
4. Debt from the Agricultural Society Upper Canada to the late Province of Canada..... 4,000 00
5. Debt from the University Permanent Fund to the late Province of Canada..... 1,220 63

III. That the assets hereinafter in this clause enumerated shall be, and the same are hereby declared to be the property of and belong to the Province of Quebec, namely :

1. The debt from the Aylmer Court House to the late Province of Canada for six per cent. Provincial debentures issued on account of the said Court House and assumed by the Dominion of Canada, and charged in the debt of the late Province of Canada,..... 2,000 00
And for certain charges paid by the said late Province of Canada in respect of the said Court House..... 1,239.70
3,239 70
2. Debt from the Montreal Court House to the late Province of Canada for six per cent. Provincial debentures issued on account of the said Court House and assumed by the Dominion of Canada, and charged in the debt of the late Province of Canada $95,600. For advances made to the said Court House by the said late Province of Canada $18,996.21..... 114,596 21
3. Debt from the Kamouraska Court House to the late Province of Canada for balance of certain charges in respect of the said Court House paid by the late Province of Canada..... 201 27
4. Debt from the Royal Institution, otherwise the McGill College, to the late Province of Canada, of the balance of a loan made by the said late Province to that institution..... 7,790 00
5. Debt under the Consolidated Municipal Loan Fund of Lower Canada to the late Province of Canada..... .2,939,429 97
6. Advances made in excess of the Legislative School Grant (described in the fourth schedule to the said British North America Act, 1867, as "Lower Canada Legislative Grant.") 28,494 73
7. Debt to the late Province of Canada under the Quebec Fire Loan. 264,254 65
8. Debt to the late Province of Canada for advances made to or on account of certain municipalities in the county of Temiscouta, (described in the said fourth schedule as "Temiscouta Advance Account.")..... 3,000 00
9. Debt from the Education Office in Lower Canada, to the late Province of Canada for the balance unpaid of a defalcation in the said office to the said late Province (described in the said fourth schedule as "Education East.")..... 290 10
10. Debt from the Building and Jury Fund, Lower Canada, to the late Province of Canada for loans and advances made to it by the said late Province of Canada..... 116,475 51
11. Debt from the Municipalities Fund of Lower Canada to the late Province of Canada, for advances made to or on the credit of that fund (described in the said fourth schedule as "Municipalities Fund.") 484,244 33
12. Debt from the Lower Canada Superior Education Income Fund to the Late Province of Canada, for advances made from time to time by the said late Province 234,281 46
13. Montreal Turnpike Trust..... 188,000 00

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IV. And as to the said Montreal Turnpike Trust, the said arbitrators, further find award and adjudge as follows :

Whereas, the said sum of one hundred and eighty-eight thousand dollars is secured by debentures issued upon the credit of the said Trust, and guaranteed by the late Province of Canada, and the said Trust has hitherto met the payments upon such debentures, and the payment thereof has therefore not been assumed by the Dominion of Canada, nor has the said sum of one hundred and eighty-eight thousand dollars been charged by the said Dominion in the debt of the late Province of Canada, which charge if made, would increase by one hundred and eighty-eight thousand dollars, the excess of the said debt on the thirtieth day of June, one thousand eight hundred and sixty-seven, above sixty-two millions five hundred thousand dollars ; *Know*, therefore, the said arbitrators having assigned the said Trust as an asset of the said Province of Quebec, do hereby adjudge and award that the said Province of Quebec shall hereafter indemnify, protect, and save harmless the said Dominion and the said Province of Ontario, against any charge upon, or payment by the said Dominion in respect of the said debentures, or the said guarantee, or in respect in any way of the said Trust.

V. *That* the following Special or Trust Funds, and the moneys thereby payable, including the several investments in respect of the same or any of them are, shall be, and the same are hereby declared to be the property of and belong to the Province of Ontario, for the purpose for which they were established, namely :—

1. Upper Canada Grammar School Fund.
2. Upper Canada Building Fund.
3. Upper Canada Municipalities Fund.
4. Widows' pensions and uncommuted stipends, Upper Canada, subject to the payment of all legal charges thereon.
5. Upper Canada Grammar School Income Fund.
6. Upper Canada Improvement Fund.
7. Balance of special appropriations in Upper Canada.
8. Surveys ordered in Upper Canada, before 30th June, 1867.
9. Amount paid and payable by Upper Canada to the Canada Land and Emigration Company.

VI. That the following Special or Trust Funds and the moneys thereby payable, including the several investments in respect of the same or any of them are, shall be, and the same are hereby declared to be the property of and belong to the Province of Quebec for the purposes for which they were established, namely :

1. Lower Canada Superior Education Fund.
2. Lower Canada Superannuated Teachers' Fund.
3. Lower Canada Normal School Building Fund.
4. Widows' pensions and uncommuted stipends, Lower Canada, subject to all legal charges thereon.
5. Balance of special appropriations in Lower Canada.
6. Surveys ordered in Lower Canada before 30th June, 1867.

VII.—That from the Common School Fund as held on the thirtieth day of June, one thousand eight hundred and sixty-seven, by the Dominion of Canada, amounting to one million seven hundred and thirty-three thousand two hundred and twenty-four dollars and forty-seven cents, (of which fifty-eight thousand dollars is invested in the bonds or debentures of the Quebec Turnpike Trust, the said sum of fifty-eight thousand dollars being an asset mentioned in the fourth schedule to the British North America Act of 1867 as the Quebec Turnpike Trust) the sum of one hundred and twenty-four thousand six hundred and eighty-five dollars and eighteen cents shall be, and the same is hereby taken and deducted and placed to the credit of the Upper Canada Improvement Fund, the said sum of one hundred and twenty-four thousand six hundred and eighty-five dollars and eighteen cents being one-fourth part of moneys received by the late Province of Canada between the sixth day of March, one thousand eight hundred and sixty-one and the first day of July, one thousand eight hundred and sixty-seven, on account of Common School lands sold between

the fourteenth day of June, one thousand eight hundred and fifty-three, and the said sixth day of March, one thousand eight hundred and sixty-one.

VIII. That the residue of the said Common School Fund, with the investments belonging thereto as aforesaid shall continue to be held by the Dominion of Canada, and the income realized therefrom, from the thirtieth day of June, one thousand eight hundred and sixty-seven, and which shall be hereafter realized therefrom shall be apportioned between and paid over to the respective provinces of Ontario and Quebec as directed by the fifth section chapter twenty-six of the consolidated statutes of Canada, with regard to the sum of two hundred thousand dollars in the said section mentioned.

IX. That the moneys received by the said Province of Ontario since the thirtieth day of June, one thousand eight hundred and sixty-seven, or which shall hereafter be received by the said Province from, or on account of the Common School lands set apart in aid of the Common Schools of the late Province of Canada shall be paid to the Dominion of Canada to be invested as provided by section three of said chapter twenty-six of the consolidated statutes of Canada, and the income derived therefrom shall be divided, apportioned, and paid between and to the said provinces of Ontario and Quebec respectively as provided in the said fifth section, chapter twenty-six, of the consolidated statutes of Canada with regard to the sum of two hundred thousand dollars in the said section mentioned.

X. That the Province of Ontario shall be entitled to retain out of such moneys six per cent, for the sale and management of the said lands, and that one-fourth of the proceeds of the said lands sold between the fourteenth day of June, one thousand eight hundred and fifty-three, and the said sixth day of March, one thousand eight hundred and sixty-one, received since the thirtieth day of June, one thousand eight hundred and sixty-seven, or which may hereafter be received after deducting the expenses of such management as aforesaid shall be taken and retained by the said Province of Ontario for the Upper Canada Improvement Fund.

XI. The "Crown Lands Suspense Account," amounting to one hundred and twelve thousand seven hundred and forty-eight dollars and sixty-three cents, and the Crown Lands Department, amounting to two hundred and fifty-three thousand and eighty-nine dollars and seventy-six cents, being the items so described in the Public Accounts of the late Province of Canada, having been omitted respectively from the statement of the debt of the said Province in such accounts, and from the assets in the fourth schedule to the British North America Act, 1867, the said arbitrators award and adjudge that the said Province of Ontario shall satisfy all claims, and receive all moneys in respect to the said Crown Lands Suspense Account, and the said Crown Lands Department connected with or arising from lands situate in the said Province of Ontario, and that the said Province of Quebec shall satisfy all claims and receive all moneys in respect of the said Crown Lands Suspense Account and the said Crown Lands Department connected with or arising from lands situate in the said Province of Quebec.

XII. As to the Montreal harbour the said arbitrators find that the debt due on account of four hundred and eighty-one thousand four hundred and twenty-five dollars and twenty-seven cents secured by debentures issued by the Montreal Harbour Commissioners has not been charged in the statement of the debt of the late Province of Canada. And they award, direct and adjudge that should the Dominion of Canada hereafter pay anything by reason of the liability of the said Dominion on account of the said debentures, the said two Provinces shall repay to the said Dominion any sum so paid in the same proportions respectively, as the said Provinces are hereinbefore directed to bear and pay the excess on the thirtieth day of June, one thousand eight hundred and sixty-seven, above sixty-two millions five hundred thousand dollars of the debt of the late Province of Canada.

XIII. That all the lands in either of the said Provinces of Ontario and Quebec respectively, surrendered by the Indians in consideration of annuities to them granted, which said annuities are included in the debt of the late Province of Canada, shall be the absolute property of the Province in which the said lands are respectively situate, free from any further claim upon, or charge to the said Province in which they are so situate, by the other of the said Provinces.

XIV. As to all the personal property being the joint property of the said Provinces

of Ontario and Quebec, not hereinbefore specially mentioned, or dealt with and not appropriated by the said British North America Act of 1867, including the library of Parliament at Ottawa, the arbitrators find that it is not expedient to divide the said properties or to divert them from the public purposes for which they are used and required by the Dominion of Canada. They, therefore, find and award that the value of the said properties is and shall be taken to be two hundred thousand dollars, and that the Dominion of Canada may retain and acquire the same properties on payment to the said Provinces of the said sum of two hundred thousand dollars in the same proportion as is mentioned in the first paragraph hereof in respect to the excess of debt of the late Province of Canada on the thirtieth day of June, one thousand eight hundred and sixty-seven above sixty-two millions five hundred thousand dollars, that is to say, to Ontario the sum of one hundred and five thousand five hundred and forty-one dollars, and to Quebec the sum of ninety-four thousand four hundred and fifty-nine dollars, and upon such payment the Dominion of Canada shall become the absolute owner of the said properties. But should the Dominion of Canada not so acquire the said properties within two years from the date of this award the Province of Quebec may acquire the said properties by the payment to the Province of Ontario within three months from the expiration of the said two years of the sum of one hundred and five thousand five hundred and forty-one dollars, and should the Province of Quebec not so acquire the said properties within the time aforesaid, the Province of Ontario shall within three months next thereafter pay to the Province of Quebec the sum of ninety-four thousand four hundred and fifty-nine dollars, and shall thereupon become the absolute owner of such properties.

XV. That the said several sums awarded to be paid, and the several matters and things awarded and directed to be done by or with regard to the parties to this reference respectively as aforesaid, shall respectively be paid, received, done, accepted and taken as and for full satisfaction and discharge, and as a final end and determination of the several matters aforesaid.

In witness whereof, the said John Hamilton Gray and David Lewis Macpherson, two of the said arbitrators, have hereunto set their hands this third day of September, in the year of our Lord one thousand eight hundred and seventy.

(Signed) J. H. GRAY,
(Signed) D. L. MACPHERSON.

Signed and published the third day of September, 1870, in presence of:

(Signed) CHRISTOPHER ROBINSON,
of the City of Toronto, Barrister-at-Law;

(Signed) FREDK. FINCH,
of the City of Toronto, Law Stationer.