

York 6 1822

John Shaver

REPORT of the Commissioners of the Province of Upper Canada appointed by His Excellency Sir Peregrine Maitland, K. C. B. Lieutenant Governor of the Province of Upper Canada, and Major General Commanding the Troops in said Province, under the authority of an Act of the Parliament of said Province.

MAY IT PLEASE YOUR EXCELLENCY.

THE Commissioners on the part and behalf of the Province of Upper Canada met the Commissioners appointed on the part and behalf of the Province of Lower Canada, at the House of the Honorable J. L. Papineau, and having communicated their authorities, it was urged by the Commissioners of Lower Canada that the Commissioners of Upper Canada should exhibit their claim in writing, which being assented to, have now the honor to lay before Your Excellency copies of their proceedings as well as copies of answers from the Commissioners of Lower Canada, and other documents and remarks relative thereto.

- No. 1.—Claim exhibited on behalf of Upper Canada, with the documents in support thereof.
- No. 2.—The answer of the Commissioners of Lower Canada thereto.
- No. 3.—The reply of the Commissioners of Upper Canada with copy of A. McLean's letter requesting a meeting of the Commissioners.
- No. 4.—The answer of the Commissioners of Lower Canada.

Copy of memorandum by the Honorable T. Clark, and Copy of Report of Commissioners of Lower Canada, all which is humbly submitted.

(Signed)

T. CLARK,
A. McLEAN,
JONAS JONES.

To
His Excellency
Sir Peregrine Maitland K. C. B.
Lieutenant Governor of the Province of Upper Canada
&c &c. &c.

The Commissioners on the part of Lower Canada having intimated a desire that the Commissioners on the part of Upper Canada, should make a statement in writing of the claims which that Province has against Lower Canada for her proportion of drawbacks on duties collected in Lower Canada.

To meet their wishes and with every desire of conciliation, as well as to put an end to the embarrassing situation in which Upper Canada has been placed for some years back for want of that part of her revenue; the Commissioners of Upper Canada proceeded with as little delay as possible, and now beg leave to state—

1st—That Upper Canada claims from Lower Canada sundry arrearages of drawbacks on duties under Provincial Statutes between the 1st of January 1813 and the 1st of January 1817, amounting to £10,845 15 7 1-2, exclusive of drawbacks on Goods purchased by the Commissariat and other Public Officers in Lower Canada, and forwarded to Upper Canada, of which no account was rendered to the Inspector at Coteau du Lac, also for drawbacks on Goods sent to Upper Canada by land carriage in the years 1813 and 1814 without reporting at Coteau du Lac, as per statement herewith marked *A*.

2dly—One-fifth of the Crown duties for the years 1813, 1814, 1815, and 1816, as per statement herewith marked *B*.

3dly—One-fifth of the duties Crown and Provincial collected on imports into Lower Canada for the two years ending on the 1st July 1821, and this proportion is founded on the last agreement of Commissioners which expired on the 1st July 1819 and not renewed from causes not depending upon or under the control of Upper Canada.

The Commissioners of Upper Canada also beg leave to state what appears to them to be the cause of these arrears, viz. from the Government of Lower Canada having

omitted to apprise that of Upper Canada as well as the Inspector at Coteau du Lac of the Legislature having laid on additional duties in the year 1813.

From there being no instructions or copies of Acts imposing the new Duties, transmitted to that Officer till April 1814, by reason of which no separate entry of Port Wine (on which an additional duty was laid) was made on that article imported into Upper Canada between February 1813 and April 1814, and no Entry whatever on Goods subject to an ad valorem duty till after the latter period.

From the defect in the Law providing for the Entry of Goods at Coteau du Lac, and the want of a Barrier on the Road (recommended by Sir Gordon Drummond) to compel the Drivers of land carriages to stop till their loading was entered, by reason of which many loaded Brigades and innumerable other carriages passed the Coteau du Lac without any account being taken of their loading.

From the Commissariat not furnishing an account of the Stores purchased by them in Lower Canada and forwarded for the supply of the various Public Departments in Upper Canada: vide copy of Inspector's correspondence herewith marked *C*.

From the Inspector having entered all Goods at 2 1-2 per cent duty, although several Merchants of Upper Canada paid the 5 per cent duty on their own Importations and also purchased extensively of Goods which had paid that duty.

From the Inspector General reporting upon the duties due to Upper Canada for 1813 having omitted to credit to that Province the duties under the 53d George 3d assigning as a reason that no separate account was kept of Port Wine at the Coteau du Lac, as his public accounts will shew.

The expences of the administration of Justice and support of the Civil Government of Upper Canada having until the year 1812 been paid by Great Britain or from the Military Chest at Quebec, appears to the present Commissioners from Upper Canada to be the reason why a proportion of the Crown Duties was not received by Upper Canada from the Lower Province previous to the year 1813. The Military Chest being shut against Upper Canada in 1812, that Province after that time has had to provide for the payment of the balance of her Civil List out of her Provincial Revenue.

All which claims for arrearages ought to have been settled previous to this time, but the Commissioners for Lower Canada in 1817 declined entering into the investigation of any claims for arrearages previous to that year, giving for a reason that the Act by which they were appointed did not give them the authority so to do, and that their powers were only prospective.

The cause why the proportion of duties to Upper Canada for the last two years ending the first of the present month is still unsettled and unpaid to the exception of £1600 on account is, as has been mentioned, not the fault of Upper Canada but from the want of legal authority in Lower Canada to empower Commissioners to arrange such proportion.

The Commissioners from Upper Canada have done every thing in their power to obtain from the Commissariat Department and other sources a correct List of the articles forwarded from Lower Canada into Upper Canada in the years 1813 and 1814 which passed Coteau du Lac and of which no Entry was made there, but without effect, they therefore think that this claim as also any data on calculations in statements *A* and *B*, to which the Commissioners from Lower Canada may object, might be settled by arbitrators who might obtain information from the persons who took Goods to Upper Canada and from the Safes

Books of the different Merchants in Montreal. The Commissioners from Upper Canada therefore beg leave to suggest the propriety of proposing to the respective Legislatures of the Provinces a submission of their claims to the award of Arbitrators equally named by either Province with power to increase or diminish the same, and in case of disagreement to choose an Umpire whose award should be final if made and confirmed before any Bill should be passed the Parliament of the United Kingdom to regulate the proportion of duties.

We come now to the arrangement of the proportion of Duties to be paid in future to Upper Canada on Imports into Lower Canada. As it is impracticable to ascertain the quantity of Merchandise passing into Upper Canada by the St Lawrence and Ottawa Rivers as well as by Land carriage, the Commissioners from Upper Canada see no other mode of coming at the proportion to be paid to Upper Canada than by assuming the Population of each Province for their Guide; taking which as even as can be obtained and from every other view of the consumption of dutiable articles by the Inhabitants of each Province, it appears to the Commissioners of Upper Canada that one-fourth of the whole duties on collected Imports in Lower Canada would be an equitable proportion for Upper Canada to receive for the two years ensuing, and as regards the Crown duties which appear to be levied principally to defray the expence of the Administration of Justice and support of the Civil Government of the Province of Quebec—That Province being divided into Upper and Lower Canada these duties materially apply to the above purposes, and ought to be divided in proportion, as is the expence of the administration of Justice and support of the Civil Government is in each, which from the best information that the Commissioners from Upper Canada can procure appears to be nearly 40,000*l* annually for Lower Canada and 22,000*l* annually for Upper Canada, therefore the proportion Upper Canada should receive from Lower Canada is as 22 to 40 of all Crown duties on Imports into Lower Canada, making a little more than one-third of the whole.

(Signed) THOMAS CLARK
ALLAN McLEAN
JONAS JONES.

Montreal, 9th July, 1821.

A.

Statement of the Claims of Province of Upper Canada upon Province of Lower Canada for Arrears of drawbacks between 1st January, 1813 and 1st January 1817, viz;

	£.	s.	d.
1st. On Duties collected at Quebec under 53d Geo. 3. Chapter 1st and not accounted for to Upper Canada in the year 1813 on Articles ascertained to have passed Coteau de Lac per Statement No. 1.	5177	15	4 1-2
2nd. On do. do. at do. under the same Act on Port Wine from 15th February, 1813 to 25th April, 1814, this cannot be ascertained to a certainty but by approximation amounts to 11752 Galls. at 1s.	587	12	0
3d. On ad valorem duties on merchandize between the 1st October 1813 and 31st December 1814, an account of which was only taken at the Coteau du Lac between the 25th April and 31st December 1814, amounting during that period to £189,322 0 9 which at the same ratio gives for the period between 1st October 1813 and 24th April 1814, £155,790 0 0 making in all £315,612 at £3 5 0 1-2 per cent which rate of per centage is taken from the proportion of Goods imported into Quebec in the year ending 5th January 1815, which amounted to £476,281 19 4 at 5 per cent			

and £1105,917 8 1 1-4 at 2 1-2 per cent which gives £11,239 11 9 Sterling duty which in Currency amounts to £12,688 8 7 less ad valorem duty accounted for by Lower Canada to Upper Canada for the year ending 31st December 1814 £8050 12 2

4th. On ad valorem duties on £349247, 9 1 1-2 Sterling Goods passing Coteau du Lac in the year 1815 say 2 months and 24 days on this at £3 5 0 1-2 per cent as the 5 per cent duty expired on the 25th March of that year, the other 9 months and 7 days at 2 1-2 per cent gives £9380 12 0 Sterling or Currency £10367 6 8 less 2 1-2 per cent and 5 per cent duty accounted for by Lower Canada to Upper Canada for that year £9724 14 10

4437 16 5

642 11 10

10,845 15 7 1-2

5th. On Merchandize purchased by the Commissariat in Lower Canada and sent into Upper Canada for the Army, Navy, Navy Yard, Commissariat, Quarter Master General's Department &c. since the 1st October 1813 of which no account has been taken at Coteau du Lac, the drawbacks on which from that period to 1st January 1817 will in the estimation of the Commissary amount to a very large sum.

6th. On Merchandize passing the Coteau du Lac into Upper Canada by Land Carriage in the years 1813 and 1814 without reporting.

Note. It appears from the printed public account of Lower Canada for the year 1819 that the sum of £4858, 0 5 Sterling has been paid to Upper Canada in part of the above.

A. Continued.

Statement shewing the sums levied on Articles consumed in Upper Canada and reported to have passed Coteau du Lac for the year ending 31st December 1813, under the Act 53d Geo. 3d and unaccounted for by Lower Canada to Upper Canada exclusive of duties on Merchandize liable to ad valorem duty of which no account was received; as per document furnished from the Inspector General's Office in Upper Canada, viz:

	L.	s.	d.
Madeira Wine 3181 1-2 Galls. a 1s.	154	2	6
Port Wine no entry but stated below by approximation*			
Jamaica Spirits 103016 Galls 6d.	2575	8	0
Brandy and other Spirits 9502 Galls. 1s.	474	11	6
Loaf Sugar 49717 1-2 lbs. 1d.	207	3	1 1-2
Salt 6432 Minots 8d.	214	8	0
Tobacco 57416 lbs. 6d.	1435	8	3
Snuff or Flour of Tobacco 4668 lbs. 6d.	116	14	0
Goods on which an ad valorem duty of 5 per cent is levied, and commenced on the 1st October 1813, of which no entry was made.			
Goods on which 2 1-2 per cent is levied do. do. and no entry.	5177	15	4 1-2

* 1815, when the separate account of Port Wine was correctly kept, the amount imported as per return was 30,852 Galls. Teneriffe, and other Wines, 35,738 Gall.

Total imported between February 1813 and April 1814 therefore is as 66590 is to 30852, so is 25,365 to 11,752 Galls. at 1s.

587 12 0

B.

Calculations of duties levied on articles passing the Coteau du Lac into Upper Canada in the years ending 31st December 1813, 1814, 1815, and 1816, under the British Acts of Parliament of the 6th George 2d ; 4th, 6th and 14th Geo. 3d ; distinguishing the amount under each year, viz:

6th Geo. 2nd.	1813.	The amount for this year is unavoidably left blank from the Commissioners of Upper Canada not at present having access to the Returns of the Inspector at Coteau du Lac for the year.
4th Geo. 3d.		
Indigo		
Gallons Madeira Wine		
Do. Fayal and other wines.		
6th Geo. 3d.		
14th Geo. 3d.	1814.	L. s. d.
Molasses, Coffee, and Pimento		
Rum, Brandy and Molasses.		
6th Geo. 2nd.		
4th Geo. 3rd.		
Indigo estim'd. at 4000 lbs. at 6d.		
54955 1-2 Galls. equal 138 1-2 tons of Madeira Fayal and other Wines at 7l.	100 0 0	969 10 0
30,585 Port wine equal 121 Tons, at 10s	60 10 0	60 10 0
	1130 0 0	
Deduct 6l 10s per ton on 69 1-4 tons wine supposing that quantity to have been imported from England	450 2 6	679 17 6
6th Geo. 3rd.		
1112gls. Molasses at 1d	4 12 8	
35286 lbs. Coffee at 7s. per cwt.	104 2 6	
Pimento estimated at 10,000 lbs. at 1-2d	20 16 8	129 11 10
14th Geo. 3d.		
615740 gallons Rum at 4 1-2d *	11545 2 1 1-2	
51,101 1-2 do. Brandy, at 1s.	2555 1 6	
1100 do. Molasses a 3d	13 15 0	14,113 18 7 1-2
		14,923 7 11 1-2
	1815.	
6th Geo. 2d.		
4th Geo. 3d.		
Indigo estim'd. at 4000 lbs at 6d.	100 0 0	
Madeira wine 8822 1-2 galls. Fayal, &c. 35-733 1-2 eq. 177 t. at 7l	1239 0 0	
Port Wine 30,552 eq. 121 1-4 tons at 10s.	60 12 6	
	1399 12 6	
Less 6l 10s per ton on 48 1-2 tons.	575 5 0	824 7 6
6th Geo. 3d.		
2704 Galls. Molasses at 1d.	11 5 4 1-2	
49421 Coffee at 7s. per cwt.	129 17 0	
Pimento estimated at 10,000 lbs. a 1-2d.	20 16 8	161 19 0 1-2
14th Geo. 3d.		
287008 Galls. Rum at 4 1-2d. *	5362 13 0	
65979 do. Brandy at 1s	3253 19 0	

2704 1-2 do. Molasses at 3d.	34 10 10	8651 2 10
		9637 9 4 1-2
	1816.	
4th Geo. 3d.		
Indigo estim'd. at 4000 lbs. at 6d.	100 0 0	
Madeira 6639 1-2 gall. Teneriffe, &c. 30,860 eq. 149 tons at 7l.	1043 0 0	
Port Wine 16211 galls. eq. 64 do. at 10s.	32 0 0	
	1175 0 0	
Deduct 130s on 74 1-2 t.	484 5 0	690 15 0

6th Geo. 3d.		
3493 1-2 gls. Molasses at 1d.	14 11 0 1-2	
38622 lbs Coffee at 7s. per cwt.	120 15 0	
Pimento estimated at 10,000 lbs. at 1-2d.	20 16 8	156 2 9 1-2
14th Geo. 3d.		
Irish Whiskey 5994 1-2 gallons at 3d.	74 18 6	
Rum 314951 1-2 galls. at 4 1-2d. *	5905 6 9 3-4	
Brandy 50117 gls at 1s	2505 17 0	
Molasses 3493 gls. a 3d	43 13 1	3529 15 2
		9376 13 2

* The duty on Rum from England is 3d. per gall. from the West Indies 6d. and from any other British Colony it is 9d per gallon; 4 1-2d. is therefore taken as a fair average.

From Mr. Wilson to Mr. Deputy Commissary General Clarke.

Coteau du Lac,
9th May, 1814.

To J. W. Clarke, Esquire.
SIR,

By an Act of the Provincial Parliament of Lower Canada of the 53d Geo. 3d. Chapter 11, you will see that all Goods, Wares and Merchandize imported into Quebec excepting such as by the Act are excepted, are now subject to duty, and though the goods which are imported for the use of Government are exempted therefrom, still such articles as may be purchased in the Province and sent to Upper Canada on account of Government must be kept an account of in my office in order that the Upper Province may receive its due proportion of duties agreeable to the Act of agreement between both Provinces: wherefore I have to request that you will please direct those officers who forward such articles as may be purchased in the Province of Lower Canada to state to me the Sterling of the same by each brigade.

I have the honor to be
&c. &c. &c.
(Signed) A. WILSON,
Inspector.

Mr. Clarke's reply to Mr. Wilson.

Montreal, 12th May, 1814.

SIR,
In answer to your letter of the 9th instant requiring an account to be transmitted to you by each brigade of batteaux sent to Upper Canada of the Sterling cost of all articles purchased on account of Government and transported in Batteaux, I am under the necessity of informing you that it is totally impracticable for the Commis-

sariat Officer directing the transport, to comply with what is required in your letter.

I have the Honor, &c.
(Signed) J. W. CLARKE.

Mr. Wilson to Mr. Brenton.

Coteau du Lac,
16th May, 1814.

SIR,

I beg leave to enclose a copy of a letter I wrote to Mr Deputy Commissary General Clarke, respecting the new duty on Merchandise, with his reply to the same, which I submit to the consideration of Government, perhaps the Commissariat may find it more practicable to make out an account every year or half year, which though not so regular as by each Brigade, will I presume be equally substantial.

I have the honor, &c.
(Signed) A. WILSON
Inspector.

To which letter Mr Brenton replied that he had received the Governor's orders to desire the Commissariat to make out an account every year as far as it might be practicable.

Mr Wilson to Deputy Commissary General Clarke.

Coteau du Lac,
3d December, 1814.

SIR,

As Mr Secretary Brenton informed me last Spring that he had requested of you to order an account to be made out every year or half year of such articles subject to the 2 1/2 or 5 per cent duties as might be purchased in the Province and sent to Upper Canada on account of Government, I beg leave to let you know that my accounts as Inspector of dutiable articles at Coteau du Lac are closed twice a year, that is on the 31st December and 30th June, and that I will be obliged to you to order an account to be furnished me of the amount of such articles above alluded to as may have been or may be sent to Upper Canada from the 31st December next, or if that cannot be, and that the account must be delayed to the 30th June next; I request you will signify the same to me for the information of both Governments.

I have the honor to be, &c.
(Signed) A. WILSON.

Mr Deputy Commissary General Clarke's reply.

Montreal, 14th Dec. 1814.

SIR,

I have to acknowledge the receipt of your letter of the 3d of this month, which I have communicated to Mr Secretary Cochrane, and informed him that it is totally out of my power to comply with your requisition to be furnished with account of articles sent on account of Government to Upper Canada subject to duty, as there is no document seems to me to shew what part of the Stores forwarded have been purchased in the country and what have been imported by Government to Quebec.

I have the honor, &c.
(Signed) J. W. CLARKE.

The undersigned Commissioners on the part of the Province of Lower Canada appointed by an Act of the Legislature of the said Province passed at its last Session to treat with Commissioners on the part of the Province of Upper Canada concerning duties levied or to be levied in the said Provinces respectively, have the honor to submit to the Commissioners on the part of Upper Canada the following observations on the statement of claims delivered in by the said Commissioners on the 9th instant conformably to the request of the Commissioners of Lower Canada, at the meeting holden at the house of the Honorable J. L. Papineau on the 5th instant.

The said statement of claims embraces

1st—Alleged arrearages of duties levied in Lower Canada prior to the Provisional agreement of the 31st May 1817, which was ratified by the Legislatures of the said Provinces respectively, viz. by Lower Canada by an Act passed the 1st April 1818, and by Upper Canada by an Act passed the 14th April 1818.

2d—The proportion of duties levied in Lower Canada to which Upper Canada may be entitled since the expiration of the expiration of the said agreement on the 1st July 1819 to the present time. And

3d—The proportion of duties levied in Lower Canada to which the Province of Upper Canada may be equitably entitled for the ensuing two years.

On the first head of these claims the Commissioners on the part of Lower Canada have to observe that they conceive every agreement once ratified must be considered as final for the period which it embraces and cannot again be entered upon by any future Commissioners without special instructions to that effect, the powers of such Commissioners at least in so far as Lower Canada is concerned extending only to the establishing of regulations, and not to the execution of them, which is properly the province of the Executive Government.

The Commissioners on the part of Lower Canada however, think it their duty under this head, to state that it appears to them that His Majesty's Government in Lower Canada in virtue of a certain agreement entered into by three Commissioners of Lower Canada at Quebec on the 7th June, 1817, which agreement was never submitted to the Legislature of Lower Canada and is erroneously inserted in the Upper Canada Act of the 1st April 1818 as part of the Provisional agreement made at Montreal on the 31st May, 1817, has not only paid over to Upper Canada a sum of £1585 Currency alleged to be due on the period from 1st January 1816, to 1st January 1817, for which there was no agreement, but has also paid over to Upper Canada a sum of £1838 0 5 Sterling equal to £5397 16 0 Currency for arrearages under former agreements which is entered in the abstract of Warrants laid before the Legislature of Lower Canada in 1821, and which was probably considered as a final settlement by both Governments the said entry being as follows, viz: John McGill Receiver General of Upper Canada being the proportion due to Upper Canada on the duties under the Act 53d Geo. 3d for the year 1813 and hitherto not carried to the credit of said Province under the agreement then existing between the two Provinces.

With respect to the second head of the claims preferred by the Commissioners on the part of Upper Canada, the undersigned observe that if the ratified agreement of the 31st May 1817, has been suffered to expire, if no new agreement has been entered into during a period of two years and Upper Canada has been deprived of that share of the duties levied on Goods imported into Lower Canada and partly consumed in Upper Canada to which equity and an established practice may have entitled her, these are unavoidable consequences of a dependence for revenue on the Legislature of another Colony to which the Legislature of Upper Canada has long consented. The Commissioners of Lower Canada do not think it consistent with the respect which they owe to their Constituents and the dignity of a Legislative Body to enter into any further explanation on this head. All conventional stipulations between the two Provinces having ceased on the 1st July, 1819. The Commissioners on the part of Lower Canada are however ready to enter into treaty with the Commissioners on the part of Upper Canada for the purpose of framing a provisional agreement for the payment to Upper Canada of a fair proportion of the duties on the Goods imported into Lower Canada, which have bona fide passed into Upper Canada, and been consumed therein, and for this purpose the Commissioners of Lower Canada offer to call before the Commissioners jointly as they are authorised by law to do, all manner of evidence which may exist within this Province and be required by the Commissioners of Upper Canada, in short to render every assistance and bring every disposition to effect an equitable settlement of the claim under this head with the least possible delay.

On the third and last head of the claims preferred by the Commissioners on the part of Upper Canada, the undersigned object to as utterly inadmissible—All claim for a future arrangement founded on the population of the two Provinces: 1st—Because the population of either Province is not sufficiently known to the undersigned. 2d—Because the consumption of dutiable Goods by the popu-

lation of the two Provinces is very different, both on account of their respective habits and local position. 3d—Because the extent and openness of the Frontier of Upper Canada towards the United States renders smuggling and other importations of dutiable Goods from the United States much more easy and advantageous than into Lower Canada. 4th—Because strong liquors and salt, which furnish the greatest amount of the duties which it is inconvenient to levy on Goods imported into Lower Canada are imported into Upper Canada from the United States notoriously manufactured in large quantities in that Province for home consumption and even partly for exportation.

The undersigned finally observe that the mode of ascertaining the proportion of duties which may be claimed by Upper Canada by actual entries of Goods passing from Lower Canada into Upper Canada, has been found liable to difficulties and misunderstandings, and has been abandoned as no longer suitable, by the Legislatures of both Provinces, and that the delays which have already occurred in two instances from the expiration of the existing agreement before another could be made, leave just grounds of apprehension that the same may again occur, which in the end might lead to serious misunderstandings, destructive of the interests of the two Provinces which are so intimately connected by the ties of Allegiance to the same Sovereign and their local position.

The Commissioners on the part of Lower Canada conformably to the powers vested in them by the Act by which they are appointed, viz: to treat of and concerning the establishing of Regulations for the Collection of the Duties or the payment of drawbacks to be imposed or allowed by the Legislature of each Province respectively, on Goods, Wares, and Merchandize, passing from one Province into the other, and also of and concerning any proportion to be received or paid of any duties already imposed or hereafter to be imposed, finally propose,

1st. The adjustment in the mode aforementioned of the proportion of duties which may be equitably due to Upper Canada on Goods, Wares and Merchandise, which have actually passed into Upper Canada from Lower Canada, from 1st July 1819 to 1st July 1821.

2d. That the proportion of duties accruing to Upper Canada from the 1st July 1821 to the 1st April 1822, be ascertained in the same manner.

3d. That from the 1st April 1822, the Legislature of each Province respectively shall allow all Goods, Wares and Merchandise proceeding through either Province into the other to pass free of duty, on entry being made at the nearest Custom House, and Bond given that the same will not be sold, opened or consumed, as the case may be, within the Province through which they are passing, which Bond shall be cancelled only on certificate of entry in the Province into which they may be introduced.

4th. That a drawback equal to the amount of the duty paid in each Province respectively be allowed on Goods purchased in either Province, and carried into the other under similar formalities and securities; the expense of collection being first deducted.

J. L. PAPINEAU,
AUSTIN CUVILLIER,
JOHN DAVIDSON,
J. NEILSON,
GEORGE GARDEN.

(Signed)

Montreal, 11th July, 1821.

No. 3.

The Commissioners on the part of Upper Canada have had the honor of receiving from the Commissioners appointed on the part of Lower Canada their Communication dated the 11th Instant, and observe that they are equally aware with the Commissioners of Lower Canada, of the propriety and justice of the remark, from which it was never the intention of the Commissioners of Upper Canada to deviate,—

That every agreement once ratified should be final for the period which it embraces: recognising this principle, the Commissioners of Upper Canada have always claimed and do still claim the arrearages of Drawbacks on Goods actually ascertained to have passed the Coteau du Lac in the year 1813 and 1814, during which period there was a ratified agreement existing between the two Provinces, and

continued by the Legislatures of each Province, until the 1st May 1816, and acted upon by the said Provinces to the 1st January 1817, without any new Agreement, during which period Upper Canada was entitled to receive drawbacks on all Goods ascertained to have passed from Lower Canada into Upper Canada, besides arrearages on large quantities of Goods passing the Coteau du Lac in those years without Entry,—and until those arrearages are settled, the Commissioners of Upper Canada do not conceive the former Agreement fulfilled.

For the settling of the said arrearages, the Commissioners of Upper Canada have heretofore applied to former Commissioners of Lower Canada, and to the Executive Government of that Province without effect, they still entreat the present Commissioners on the part of Lower Canada, to enter into arrangements for the final adjustment of those arrearages, but should they decline this solicitation it is hoped they will agree to recommend to their Legislature the propriety of settling those arrearages by Arbitration as heretofore suggested.

The Commissioners of Upper Canada, also remark that in Document marked A, transmitted to the Commissioners of Lower Canada, on the 9th Instant, it was there stated, that £4858 0 5 Sterling of the said arrearages had been paid to Upper Canada, but which was never contemplated or accepted by the Executive Government of that Province to be in full. The Commissioners of Upper Canada have reason to believe, that frequent applications have been made to the Executive Government of the Lower Province by the Lieutenant Governor of Upper Canada since the above sum was paid, for the residue of the said arrearages.

The Commissioners on the part of Upper Canada observe that the sum of \$1585 Currency, paid over to Upper Canada by Lower Canada for the arrearages of Drawbacks of Provincial Duties, in the year 1816, was the sum *not alledged*, but ascertained by the Commissioners on the part of the two Provinces, as per instrument signed by them, bearing date the 7th day of June 1817, and the said sum so ascertained, was paid in conformity to an Act of the Province of Lower Canada, passed the eighth day of March 1817, entitled, An Act to authorize the advance of a certain sum of money for the causes therein mentioned to the Province of Upper Canada.

With regard to the proportion of Duties due to Upper Canada for the two years ending the 1st July 1821, the Commissioners in claiming one-fifth of the amount collected in Lower Canada for those years, have maturely considered the principle heretofore acted upon by the two Provinces, which has been a continuation of the same Rate until a new Agreement was entered into, and this proportion the Commissioners on the part of Upper Canada are convinced is to the prejudice of the Upper Province: to elucidate and support this claim, a reference may be had to the returns of the Inspector at Coteau du Lac for the years 1814, 1815 and 1816, when the Entries made therein the two last of those years, were more regular than in time of war, and will shew the proportion of the following articles entered at the Coteau du Lac *alone* to the whole entered into Lower Canada, to be nearly as follows, viz: of Rum 3-8; Brandy and other Foreign Spirits 7-16; Muscovado Sugar 5-18. The Return for the year 1816 being the only one which the Commissioners of Upper Canada have at present access to, shews the proportions to be nearly as follows, viz:—

of Madeira Wine more than	1-4
Port do. do.	1-5
Teneriffe and other Wines	1-6
Rum and Whiskey more than	1-4
Brandy and other Foreign Spirits	5-6
Loaf Sugar	1-4
Muscovado do.	3-7
Teas	2-3
Coffee	1-9
Ad Valorem Goods more than	1-6

It may be also remarked that the Population of Upper Canada consumes a much greater proportion of British Dry Goods, than an equal number of the Population of Lower Canada, the latter being principally clad in their own manufactures.

As an additional proof for the claim of 1-5 for the Province of Upper Canada, the undersigned Commissioners have seen documents of Goods having passed Coteau du Lac and entered there in 1817 amounting to more than one-fifth of the dutiable Articles entered in Lower Canada.

da, exclusive of those Goods passing up the Ottawa River and by land carriage, of which no account has been taken.

The Commissioners of Upper Canada are impressed with the opinion that the plan proposed by the Commissioners of Lower Canada to ascertain the proportion of Duties for Upper Canada until the 1st July 1821, is not only novel and unprecedented in these Provinces, but impracticable at this late period, particularly when they advert to the indelicacy of inspecting the Books of all the different Merchants who have furnished Goods for Upper Canada; the impossibility of obtaining the amount of Goods purchased for Cash, Barter, or in any other way, or of the numerous Merchants and Traders who may have removed with their Books from the country, to whom no recourse can be had: such a research could only tend to delay and vex all parties, without a possibility of obtaining any true state of the Goods actually sent to Upper Canada.— The Commissioners of Upper Canada, convinced that such an enquiry would not give the satisfactory information required, therefore trust that on mature consideration the Commissioners on the part of Lower Canada will remove this obstacle to arrangement and consent to agree to such an aliquot part of the Duties as Upper Canada has received during the last Agreement. *

Although for twenty years past much Spirits from Corn has been made in Upper Canada, still a large quantity of Rum and other Foreign Spirits is used in that Province.

The higher Districts of Upper Canada have usually been supplied with Salt from the United States or made from Springs in that Province; but the excess used in Upper Canada of British Dry Goods is probably more than an equivalent for these articles.

From the immense length of the Frontier in Upper Canada bordering on the United States, and to which access is so easy, it is impossible to prevent an illicit trade, however, Teas and Indian Goods are the principal Articles smuggled; but at the same time the Commissioners of Upper Canada are aware that the same illicit trade is carried on fully to the same extent in Lower Canada.

Although the undersigned Commissioners are convinced that at present there passes from Lower Canada into the Upper Province, Articles of Merchandize on which Duties are paid in the Lower Province to fully one fourth of all the amount levied in Lower Canada, they are nevertheless for the sake of conciliation and of bringing matters as far as possible to a close, willing to enter into a Provisional Agreement at the rate of one fifth part of all duties being paid to Upper Canada to the 1st of April 1822, being the period to which the Commissioners of Lower Canada seem only inclined to agree.

The Commissioners of Upper Canada observe in the communication of the eleventh instant, that the Plan proposed for the ascertaining of drawbacks on Duties after the 1st April 1822, is by ascertaining at the nearest Custom Houses in each Province the amount of Duties on Goods going from one Province into the other.

If the Commissioners of Lower Canada persist in this mode, it will be unnecessary from the local situation and extent of the boundary line, and the various ways of entering into the Province of Upper Canada from Lower Canada, to enter into any agreement, as the system would in fact be most injurious to the revenue of the Upper Province by consuming, at least, the portion of Duties she may be entitled to receive from Lower Canada in the expense of establishing innumerable Custom Houses on the different Water and Land Communications, exclusive of a barrier across the ice on Lake St. Francis in the Winter, and all which, even if attempted with their train of Custom House Officers, would not, as the undersigned are well convinced, be the means of obtaining the desired end.

In making a proposition for the future, it appeared to the undersigned that the proportion of population in each Province would be the best and least exceptionable mode for ascertaining the proportion of duties to be received by each Province; but as this mode appears not to be consonant to the views and objectionable in the judgement of the Commissioners of Lower Canada, the undersigned Commissioners beg leave to suggest that all dutiable Goods thereafter destined to pass from Lower Canada, be entered at the Custom House of Montreal, aided by a Barrier at La Chine, with an Inspector stationed there, with power to stop all carriages and boats, to ascertain that their loading going to Upper Canada has been so entered, or to receive an entry of the same there, to be by this Inspector

reported to the Custom House in Montreal.

(Signed)

THOMAS CLARK,
ALLAN McLEAN,
JONAS JONES.

Montreal, 15th July 1821.

Copy of a Letter which accompanied the foregoing.

Montreal, 15th July, 1821.

Sir,

I am requested by the Commissioners on behalf of the Province of Upper Canada, to transmit to you the enclosed communication, and to request a meeting as soon as convenient on the subject of the Commission.

I have the Honor to be,
Sir,

Your very Obedient Servant,

(Signed) ALLAN McLEAN.

(See Memorandum at the end with Report.)

No. 4.

The undersigned Commissioners on the part of Lower Canada, have taken into consideration the reply which they received last evening from the Commissioners of Upper Canada, to the observations and proposals which the undersigned had the honor to submit on the 11th instant. The undersigned conceive it to be unnecessary to enter into any further discussion on the subject of the arrearages under former Agreements, alleged to be due by the Commissioners of Upper Canada, since both parties seem to admit that the fulfilling of those Agreements belonged to the Executive Government of both Provinces respectively, and the undersigned are of opinion that any misunderstandings which may exist on the subject can only regularly come before the respective Legislatures through the Executive. The undersigned think it however again proper to repeat their conviction, so far as their present information goes, that the settlement which they mentioned in their observations of the 11th instant, must be considered final. The Commissioners on the part of Lower Canada do not feel themselves warranted in any departure from the mode which they assigned for ascertaining the proportion of dutiable articles which have passed into Upper Canada, for consumption, since the 1st July 1819.

There being no Agreement in force, it is only on grounds of equity and former practice, that the Province of Upper Canada can claim any share of the Duties levied in Lower Canada.

The Commissioners on the part of Lower Canada, are willing on these grounds to enter into an Agreement for a proportion of the Revenue of Lower Canada being paid to Upper Canada, but in order to determine this proportion it is necessary that they should know as nearly as the case will admit of, what proportion of dutiable Goods entered in Lower Canada, have actually passed into Upper Canada for consumption, within the period for which such proportion is to be allowed. It would perhaps be fortunate if the exportations from Lower Canada into Upper Canada were still to exist as in the first years after the War, but every one of the Inhabitants of both Provinces knows by his own experience that it is no longer the case. The Commissioners of Lower Canada cannot consent to any measure which might probably authorise the taking of the money levied on the Inhabitants of Lower Canada, and actually paid by them in the first instance, to make an allowance to Upper Canada, for a consumption and consequent repayment of duties which may not have existed. The Commissioners of Lower Canada are well aware that novel and unprecedented circumstances will give rise to novel and unprecedented modes of proceeding, but they have the satisfaction to observe that on this occasion the mode proposed by them is precisely that which was carried into practice, when the first Agreement was entered into in 1785. The Commissioners on the part of the Pro-

vince of Lower Canada, are apprehensive that their views in regard to the future, have not been sufficiently expressed or rightly understood. They beg leave to state it as their decided conviction that their duty to their Constituents will not authorise them to enter into any Provisional Agreement for any period beyond the close of the next Session of the Legislature, which shall not have for its basis the sole collection of its own Revenue by both Provinces respectively, without either of them being charged with the payment or refunding the proportions of duties or drawbacks to the other, and to effect any such Agreement on terms of perfect equity and reciprocity. the undersigned have been and are still willing to give their most assiduous application and assistance.

(Signed) J. L. PAPINEAU,
AUSTIN CUVILLIER,
JOHN DAVIDSON,
J. NEILSON,
G. GARDEN,

Montreal, 17th July, 1821.

Report of the Commissioners appointed by the Act of 1st George 4th, Chapter to treat with Commissioners on the part of Upper Canada, concerning duties.

The Commissioners of both Provinces met at Montreal, at the House of the Honorable J. L. Papineau, on Thursday the fifth of July 1821, conformably to notice given to the Commissioners of Lower Canada, by order of His Excellency the Governor in Chief.

PRESENT

The Hon. J. L. PAPINEAU,
AUSTIN CUVILLIER,
JOHN DAVIDSON,
GEORGE GARDEN, and
JOHN NEILSON.

on behalf of
Lower Canada.

AND
The Hon. THOMAS CLARK,
ALLAN McLEAN, and
JONAS JONES, Esquires.

on behalf of
Upper Canada.

After some observations on both sides by different Commissioners, it was agreed by the Commissioners of Lower Canada, that the Commissioners on behalf of Upper Canada should communicate in writing the claims or proposals which they had to make, supported by such statements they might think proper.

TUESDAY, 10th July, 1821.

The Commissioners on behalf of Lower Canada, met at the house of the Honorable J. L. Papineau, conformably to notice, when the Honorable J. L. Papineau informed the Commissioners that he had received on the preceding evening a written communication from the Honorable Thomas Clark on behalf of the Commissioners of Upper Canada, which communication is hereunto annexed and marked A.

WEDNESDAY, 11th July.

The answer hereunto annexed and marked B. in answer to the communication on the part of Upper Canada, was read and agreed to unanimously, and being signed by all the Commissioners, was delivered to the Honorable Mr. Clark, by the Honorable Mr. Papineau.

TUESDAY, 17th July, 1821.

The Commissioners met conformably to notice from the Honorable J. L. Papineau, who communicated the annexed reply marked C. on the part of the Commissioners of the 11th instant, and the annexed answer marked D. was read and agreed to and being signed by the Commissioners, was

communicated to the Honorable Mr. Clark: and the Honorable T. Clark and Mr McLean having signified to Mr. Davidson and Mr. Neilson, that the Commissioners of Upper Canada, did not find themselves warranted in deviating from the pretensions and proposals delivered yesterday evening, and that if the Commissioners on the part of Lower Canada were determined to persist in their proposals, any further meeting would be unnecessary; it was determined on the part of the Commissioners of Lower Canada to discontinue all further proceedings for the present, they on their part seeing no reason to deviate from the proposals which they have given in.

(Signed) J. D.

Memorandum to be attached to Mr. McLean's note of the 16th July 1821, to Mr. Papineau.

No answer being received to the foregoing note. Document No. 4, excepted, which was delivered by Mr. Davidson to Mr. Clark at Lachine on the 17th July, on the 21st July Mr. McLean and Mr. Clark called on Mr. Papineau at his house, and there learnt that Mr. Papineau had left town to be gone for two weeks, after which on the same day (the 21st) they called upon Mr. Garden, who said he had neither seen nor before heard of the foregoing note from Mr. McLean, and that he had not before seen or heard of the Report (signed J. D. now shewn to him) also that this Report was not consonant to his ideas, and further added that had he seen the above note, he should have decidedly been of opinion that the Commissioners of both Provinces should have a meeting together.

(Signed) T. CLARK.
July 21st, 1821.

REMARKS.

T. Clark says, that on Tuesday, the 17th July 1821, he met at La Chine at the opening of the New Canal. Messrs. Davidson and Neilson, who asked Mr. Clark if the Commissioners of Upper Canada would recede from what they had proposed: Mr. Clark said he thought not, but that he, Mr. Clark, had no objection on his own part to try the mode proposed to find out the quantity of Goods sent to Upper Canada for the two last years, saying at same time, that the experiment, if tried, would be of no use. Mr. Davidson and Mr. Neilson then said, the business was at an end, and that they would go off for Quebec that evening, and said that so soon as they got Mr. Garden's signature, they would hand him, Mr. Clark, the answer to the remarks of the Commissioners of Upper Canada given in yesterday: this answer Mr. Davidson accordingly gave to Mr. Clark in about one quarter of an hour afterwards, and is supposed to be document marked D. alluded to in the foregoing, and is marked No. 4, in the Report of the Commissioners of Upper Canada. Mr. Davidson also told Mr. Clark that he would furnish to the Commissioners of Upper Canada a copy of their Report, which is supposed to be the foregoing, which was delivered to Mr. Jones, and not seen by Mr. Clark until the 20th.

(Signed) T. CLARK.

Mr. McLean says that there was no such communication made to him as stated in the foregoing paper.

Certified to be a true Copy of the original Report.

(Signed) G. HILLIER,

Erratum.—In the 30th line from the top of the first column of the second page, for materially read naturally.