ARBITRATION BETWEEN ONTARIO AND QUEBEC.

A somewhat vexed question between the Provinces of Ontario and Quebec has arisen with respect to the provincial debts. We purpose to put a brief statement of the facts in issue of record without expressing, in a work of the nature of the *Year-Book*, an opinion upon the merits.

It was enacted in sec. 142 of the British North American Act of 1867, "That the division "and adjustment of the debts, audits, liabilities, properties, and assets of Upper Canada "and Lower Canada shall be referred to the arbitrament of three arbitrators." These few words contain all the provision that was made. There was no rule laid down, or mode prescribed, for the guidance of the proceedings of the arbitrators.

The Hon. D. L. Macpherson, senator, was appointed arbitrator for Ontario, the Hon. C. D. Day, for Quebec, and the Hon. J. H. Gray, M.P., was appointed third arbitrator by the Dominion Government.

The counsel for the respective Provinces stated their cases in printed factums. The Hon. J. H. Cameron, Q.C. for Ontario, contended the whole debt of Canada, at the time of the confederation, should be taken at the sum of $73,039,553.92, and the excess beyond $62,500,000. or $10,539.553.92 as the sum to be dealt with by the arbitrators in the adjustment of debt between the Provinces. It was proposed to deal with this excess of debt in three modes. Schedules were given showing the debts created for local purposes in the Provinces of Ontario and Quebec amounted to $17,735,579.52, of which $9,833,733.33 were for Ontario and $7.401,046 for Quebec; and it was proposed that Ontario should bear the proportion of excess above the amount stated ($62,500,000) by a charge against it in a ratio of either its debt created for local purposes to the excess, or of the population of Ontario and Quebec respectively, according to the last census, or apportioned to the assets of Quebec and Ontario, capitalized at six per cent. on the average rate of interest they produced for the last four years and a half, but such interest in no case to be more than six per cent. The result of the first of these modes would be to make the Province of Ontario liable for $5,845 416.01 and the Province of Quebec for $4 694,137.90; the result of the second to make the Province of Ontario liable for $5,867,738.43, and Quebec for $4,675,805.49; and the result of the third to make Ontario liable for $5,304,184.42 and Quebec for $5,235,369.53. It was added, on the part of Ontario, that no other mode of appointment could be suggested, and further contended that it was fair that the $10,539.553.92 to be divided, should be borne by the respective Provinces in the proportion in which they received the monies for local purposes, and of which the debt formed a part. It was further contended, with respect to proposal No. 2, that the Parliament of Canada itself adopted this mode of apportionment with respect to the municipalities fund and the common school grants, this being the principle of apportionment according to population; and with respect to No. 3, it was set forth that this move could only be used by agreement, but that it was just in itself, as these assets arose from and formed part of the debt of the late Provinces of Canada, and were not for general but local purposes.

In dividing the assets of the provinces, the factum of Mr. Cameron proposes that each asset shall be left in the province in which it arose. This to be done upon a capitalization of income for four years and a half. The nominal par value of the assets, as stated in the schedules, showed an excess for Ontario of $2,826,571.40. The capitalization as proposed gives $30,319.86 more to Ontario than Quebec. The school lands, Ontario wholly claims in that they are derived altogether from that Province. Claims arising out of the seigniorial tenure arrangement are also made to an amount of $2,528,218.10.

The statement of the case of the Province of Quebec was submitted by Messrs. N. Casault, M.P., and T. W. Ritchie, Q.C. (Mr. Casault was some time afterwards appointed judge, and Mr. Ritchie conducted the case, with Hon. Mr. Irvine, Solicitor-General, as counsel.)

The counsel for Quebec in the first place set forth that there was a question arising from the terms of B. N. A. Act of 1867, if the arbitrators had jurisdiction over a portion of the assets of the late Provinces of Canada.

They contended that any division of the surplus debt of the late province on the basis of population, whether that of 1861 or 1867, without taking into account the respective financial positions of the two provinces in 1841, when they became united, or inquiring into whose interest or in what proportion the debt was created, would be grossly unjust. They showed that the debt of Upper Canada in 1841, when she entered the union, was $5,925,779.54, while the debt of Lower Canada (less a contingent and never likely to be made charge for the Harbour of Montreal) was only $60,996. But against this Lower Canada had at its credit $250,302.41 From which if the amount of debt, $60,996, were deducted, would still leave a sum of $189,306.41 which Lower Canada had at its command. The counsel further contended that the striking out of this amount would be equivalent to adding it to the debt of Upper Canada, a process which would make the debt of that province $6,115,630.60 when she entered the Union. Taking the population of Upper Canada at that date to be 465,377, and that of Lower Canada at 663,258, the counsel held that Lower Canada should have entered the union with a debt of $8,715.30.60 to have been in the same position as Upper Canada.

The counsel on behalf of the Province of Quebec held that it is impracticable at this time to go thoroughly into the question of the real origin of the debt, so as to determine thereby the share of each. They further held that to take the assets as a guide would be most fallacious, and the more so if only part of them were taken into consideration. For instance, large sums of money were expended on the roads of Upper Canada, which were vital to its prosperity, yet the Government sold them to companies or municipalities for a merely nominal consideration. And further, that the sums 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 their cost should be considered.

The Quebec counsel arrive at this conclusion that 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