

"of ordinary partnership, and apply the rules which govern the partition of partnership estates,—rules which are the same in the old Roman as in the modern English and French law." Adopting this basis it is contended that the union has been equally advantageous to both provinces, and that each province ought first to assume from the excess of debt a sum equal to its own debt when it entered the Union, and to divide equally the balance. By this mode, taking the amount (\$6,115,085.95) of the debt of Upper Canada when she entered the Union from the amount \$10,434,853.87 of the surplus debt to be apportioned, would leave a sum of \$4,309,767.92 to be equally divided, or for each province, \$2,154,883.96.

According to population in 1861, it gives—

Ontario	\$2,399,282.48	\$2,512,650.89
Quebec.....	1,910,356.44	1,797,117.03
	<u>\$4,309,767.92</u>		<u>\$4,309,767.92</u>

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.

The counsel for Quebec dwelt at some length on the assets which appear in the statement of liabilities. They contend that they are to be viewed in the same light as sums of money voted for special services, which not having been employed, fall into the public chest; and that they are to be divided and adjusted as all other credits, properties, assets, debts and liabilities.

With respect to Indian lands it is contended that it would be unjust to require Quebec to share in paying for these, seeing that as Ontario received the lands and the arrears due for those sold, it is subject to all claims that may exist on them, and should be charged with the principal of the annuities. It is therefore held that they should be taken out of the statement of liabilities, unless confederation is required for Ontario.

The Province of Ontario, in reply by its counsel, stated that the arbitrators had no power to enquire into the debts of the provinces before the union, nor to deal with the debt or credit with which either province came into the Union. But if the arbitrators will feel themselves justified in going into the matter objected to, the Province of Ontario would insist upon going into the consideration of the origin of the debts and charges which the counsel for Quebec alleged to be impracticable.

Ontario claimed that the common school and the municipalities fund for U.C. as well as certain balances belong to that province alone, and are not to be divided as contended by Quebec.

With respect to Indian lands, the Province of Ontario contended that the monies from their sale went with the general revenue; and that for the annuities chargeable under the treaty of surrender made by the Hon. W. B. Robinson, an express equivalent was made to Lower Canada, by the setting apart of 200,000 acres of crown lands for the Indians, and by an annual charge upon the revenue. Ontario therefore denies any separate liability.

Quebec, in its reply, stated that Ontario, in dealing with the question of excess of local debt, desired to ignore that the debt with which Upper Canada entered the Union in 1841 was a local debt, amount \$5,925,779.50; the interest on which since also a local debt, is \$7,578,744.65; that the U.C. Improvement Fund, which had no counter part in L.C., was a local debt, and produced during the six years of its existence \$425,527.62; that the difference in the excess of the proceeds of the Municipalities Fund in Upper over Lower Canada amounted to \$3,192,767.38;—making together \$17,122,819.19,—an amount which should have been added to the local debt of Ontario stated by itself at \$9,833,733.33 and raising it to \$26,956,552.52. Assuming the figures of Ontario to be correct, its share and that of Quebec would be: Ontario, \$8,150,591.34. and Quebec, \$2,388,962.58.

Quebec next replied that taking population, without considering the respective financial positions of the parties, would be most unjust; and further showed that in the expenditures after the union or incident thereto, much larger appropriations were voted for Upper Canada than Lower. In the 4th and 5th Vic., chaps. 28, 34, 44, 46, and 50, the sum of \$6,704,137.18 was voted for Upper Canada, and for Lower Canada, \$715,968.88. But the population of Lower Canada at that time was one-half larger than that of Upper Canada, and the share of appropriation of the former, if population had been taken as a guide should have been \$9,555,185.58. Less appropriated as above, \$715,968.88, making a difference of \$8,839,216.70. Adding to this disproportion, that of debt, as above, \$8,715,630.60, and the simple interest though it was held, compound might be charged if the origin of the debt were gone into from 1841 to 1867, on the debt which Upper Canada brought in, viz.: \$7,578,744.65, making together the large sum of \$25,133,591.95. Quebec held that this immense disproportion cannot be ignored, yet it practically would be if the second mode of dealing with the question, as proposed by Ontario, were adopted.

Quebec next contended that the proposition of Ontario of proportion of capitalized assets, was more unjust and unsound than the other two.

In reply to the pretension of Ontario with respect to the school lands, Quebec replied that it was utterly untenable in the face of cap. 26 of the Consolidated Statutes, creating this trust. The Budget speech of the Treasurer of Ontario, was also cited to prove that this fund is one in which the Provinces have proportionate interest.

As to the claims arising out of the seigniorial tenure arrangement, Quebec contended that ample compensation was at the time made to Upper Canada; and that if Quebec were really more greatly benefitted by that legislation than Ontario, that benefit is nothing to set against the \$7,578,744.65 paid by United Canada, for the debt with which Upper Canada came into the union in 1841; for the \$3,192,767 excess received by Upper Canada from the municipalities fund, another \$425,527.62, which Upper Canada drew from the improvement fund;—these three sums amounting to \$11,197,039.65. The argument was further pursued, but our space will not allow us to follow.

On the 9th of July a majority of the arbitrators, the Hon. Messrs. Macpherson and Gray rendered an interlocutory judgment, the Hon. Mr. Day for the Province of Quebec, dissent-