

penditures and the expenditures of our own municipalities, civic or otherwise, would lead to the same result. With every confidence I invite such comparisons.

The Treasurer then referred to the arbitration now pending between the Provinces and the Dominion, remarking on its long continuance, nearly 20 years. He went on with a sketch of the arbitration. He first noticed the interest question, as it is called, the first award of which was published on the 2nd of November, 1893. By paragraph 8 of this award the question "as to whether or not the Dominion shall be allowed simple interest at the rate of 5 per cent. per annum on any balance that may from time to time be found to exist in its favor in the separate accounts of Ontario and Quebec" was reserved for further argument. Argument on this reserved question took place at Ottawa on the 11th and 12th of January, 1894, and the decision of the arbitrators thereon constitutes their second award, which bears date August 31, 1894.

The first award, that of November 2, 1893, directs that Ontario and Quebec shall be credited with the subsidy half-yearly in advance, that the deductions for interest on the excess of debt of the Province of Canada over \$62,500,000 as actually ascertained in amount at each period shall be made at the end of each year down to and including January 1, 1873; that the first of such deductions shall be made on the 1st of January, 1868.

(2) That in the Province of Canada account there shall be credited on the 23rd day of May, 1873, the \$10,506,088 remitted by 36 Vict., ch. 30, and that there shall be no deduction from the subsidy thereafter.

(3) That on and from July 1, 1884, the Provinces shall be credited with the additional subsidy granted by 47 Vict., ch. 4. (Under this act we become entitled to receive interest on a capital of \$2,848,289, and this interest has been regularly paid to us each half-year since.)

(4) That each Province shall be credited as of date July 1, 1887, with its share of \$200,000, representing the purchase money of the Ottawa Library and other personal property.

(5) That the trust funds shall be treated as intact and unimpaired, and interest thereon at 5 per cent. half-yearly carried into the separate accounts of Ontario and Quebec.

(6) That the Province of Canada account shall be made up at simple interest at 5 per cent. per annum.

(7) That in the separate accounts of Ontario and Quebec the said Provinces shall be allowed simple interest on any balance from time to time existing in their favor at 5 per cent., unless some other rate has been expressly agreed to.

APPEAL BY THE DOMINION.

The Dominion, objecting to certain findings in the first award, that of November 2, 1893, appealed to the Supreme Court for the following reasons:—

(1) The award decides that interest on the excess of debt of the Province of Canada is to be deducted from the half-yearly subsidies only at the end of each half-year, instead of at the times when such half-yearly payments of subsidies are by the British North America act directed to be credited to the Provinces.

(2) To so much of the award as determines that the Dominion is not entitled in its accounts with the Province to make twelve half-yearly deductions of interest on the said excess of debt existing at the time of the union.

(3) To so much of the award as decides that the deduction of interest on the said excess of debt from the half-yearly subsidies is to be based upon such excess of debt over \$62,500,000 as is actually ascertained in amount at each period of deduction, instead of being based on the excess of debt as actually ascertained at the time of the passing of the act 36 Vict., ch. 30, or as actually existing at the time of the union.

This appeal on the part of the Dominion was argued before the Supreme Court at Ottawa on the 9th, 10th and 12th of November, 1894. Judgment was given on the 6th of May, 1895, dismissing the appeal with costs.

OTHER AWARDS.

The second award, that of 31st August, 1894, which deals mainly with the reserved question to which I have referred, directs that in certain cases the Dominion shall be allowed 5 per cent.

and in other cases 4 per cent. simple interest on balances in its favor.

In connection with this interest question alone we have thus had a most exhaustive and able argument, lasting fifteen days, and consequent upon it, two awards and a judgment of the Supreme Court. In a word, the result is as favorable to Ontario in fact as any other form of the stating of the account which had been discussed, and more favorable than any form in which the Dominion was willing to concede the account to be stated or taken.

The next important matter taken up by the arbitrators was the claim of the Dominion, filed in October, 1893, against the late Province of Canada, and the Province of Ontario as well on behalf of the Ojibeway Indians for arrears of annuities and increased annuities alleged to be payable under the Lake Superior and Lake Huron treaties, sometimes called the Robinson treaties of 1850. The claim for arrears against the Province of Canada from 1851 to 1866 amounted to \$102,000, and for interest alone to the end of 1892 \$223,000. The claim against Ontario alone for arrears and increased annuities from 1867 to the end of 1892 amounted to \$314,000, and for interest to \$169,000.

These claims were argued in October, 1894, and an award was made on the 14th February, 1895.

The first four clauses of this award declared in effect that if in any year since the treaties in question were entered into (1851) the territory thereby ceded produced an amount which would have enabled the Government, without incurring loss, to pay the increased annuities to the Indian tribes mentioned therein, then such tribes were entitled

to such increase, not exceeding \$4 for each individual from time to time belonging to the tribes entitled to the benefit of the treaties. Any liability to pay the increased annuity in any year before the union is declared to be a debt or liability which devolved upon the Dominion under section 111 of the B. N. A. act, and to be one of the matters to be taken into account in ascertaining the excess of debt for which Ontario and Quebec are conjointly liable to Canada under section 112 of the B. N. A. act.

In other words, if, on investigation, it is found that the territory ceded produced sufficient before 1867 to have enabled the Government of the old Province of Canada to have paid the increased annuities without incurring loss the Indians are now entitled to increased annuities as stipulated in the treaties with them and Ontario and Quebec are ultimately liable therefor.

Paragraph 5 of this award reads: "That interest is not recoverable upon any arrears of such annuities." The effect of this is to strike out at once as untenable \$273,000 of the claim.

Our counsel contend that during a part of the period for which the claim is made, and speaking without prejudice, reaching probably back to 1872, increased annuities could not have been made without incurring loss.

The arbitrators further held (Chancellor Boyd dissenting) that the Dominion was entitled to interest on each year's payment of increased annuities from the time of each payment thereof when properly made, say, from 1872, on estimate and without prejudice.

ONTARIO'S APPEAL SUSTAINED.

Ontario appealed to the Supreme Court from parts of this award, viz., paragraph 6, which fastens the ultimate burden of payment of the increased annuities after the union upon Ontario alone, on the ground that the ceded territory became the property of Ontario under section 109 of the B. N. A. act, and that it was subject to a trust for the Indians; and also to that part of paragraph 9 which says that any payments of increased annuities properly made by the Dominion since the union are to be charged against Ontario as of the dates of payment.

This appeal was argued in May, 1895, and judgment given sustaining the appeal in December, 1895. In his judgment, delivered Dec. 9th, 1895, Chief Justice Strong of the Supreme Court says:—

"This appeal must be allowed, and the award must be varied by substituting for the 6th paragraph thereof the following:—The ceded territory mentioned became the property of Ontario under the 109th section of the British North America act, 1867, absolutely, and free from any trust, charge or lien in respect of any of the annuities, as well those presently payable as those deferred and agreed to be paid in augmentation of the original annuities, upon the condition in the treaties mentioned. And, further, by striking out