

P A P E R S

RELATIVE TO THE

APPORTIONMENT OF THE PUBLIC DEBT

OF THE

FORMER PROVINCE OF NELSON

BETWEEN

THE PROVINCES OF NELSON AND MARLBOROUGH.

PAPERS RELATIVE TO THE APPORTIONMENT OF
THE PUBLIC DEBT OF NELSON AND MARLBOROUGH.

B—No. 9

No. 1.

SUPERINTENDENT OF MARLBOROUGH TO THE COLONIAL SECRETARY.

Superintendent's Office, Marlborough,
December 27th, 1860.

SIR,—

In accordance with the provisions of an "Act to apportion the Public debt of the former Province of Nelson, between the Provinces of Nelson and Marlborough,"

I do myself the honour to appoint David Monro, Esq., M.D., of Nelson, as Arbitrator on the part of the Province of Marlborough.

I have, &c.,

WILLIAM ADAMS,
Superintendent.

The Honorable the Colonial Secretary,
Auckland.

No. 2.

MR. STAFFORD TO THE SUPERINTENDENT OF MARLBOROUGH.

Colonial Secretary's Office,
Auckland, 6th March, 1861.

SIR,—

I have to acknowledge the receipt of your Honor's Letter, dated 27th December last, appointing, under the authority of the Nelson and Marlborough Public Debt Apportionment Act, 1860, David Monro, Esq., M.D., to be an Arbitrator under that Act.

His Honor the Superintendent of Nelson not having, on his part, appointed an Arbitrator, His Excellency the Governor has, as required by the Act in default of such appointment, appointed John Sharp, Esq., of Nelson to be an Arbitrator.

I have, &c.,

E. W. STAFFORD.

His Honor the Superintendent,
Marlborough.

No. 3.

SUPERINTENDENT OF NELSON TO THE COLONIAL SECRETARY.

Superintendent's Office,
Nelson, 28th January, 1861.

SIR,—

I find in the copy of Acts passed in the last Session of the General Assembly, and received at this Office on the 7th instant, one entitled "An Act to apportion the Public Debt of the former Province of Nelson between the Provinces of Nelson and Marlborough," in which it is provided by the 11th clause that "within 90 days after the passing of this Act the Superintendent of each of the Provinces of Nelson and Marlborough, shall, by writing under his hand, delivered or forwarded by post to the Colonial Secretary, appoint an Arbitrator willing to act, and in default of such appointment being made by either of the said Superintendents, the Governor of the Colony, in lieu of the Superintendent so making default, shall appoint an Arbitrator, or if both such Superintendents shall make default, then the Governor shall appoint two Arbitrators."

As I am still fully impressed with the belief that the boundaries separating this Province as defined by the Order in Council, dated 4th October, 1859, are not in accordance with the "New Provinces Act, 1858," and therefore illegal, I am unwilling by such an overt act on my part as that of appointing an Arbitrator on behalf of this Province, for the purpose specified in the Act of 1860, to compromise its interests.

I have, therefore, the honor to request that you will be good enough to acquaint His Excellency that, actuated solely by a desire to protect as far as possible the welfare of this Province, I consider it my duty to decline exercising the right of appointing an Arbitrator as provided by the Act referred to, thereby leaving it to His Excellency to exercise the right as he may think best.

I may remark, without prejudice however to the question raised as to the legality of the boundaries, that could I view it as compatible with my duty and for the welfare of this Province to exercise the right of appointing an Arbitrator, I should appoint Mr. John Sharp, Registrar of the Supreme Court, &c.

I have, &c.,

J. P. ROBINSON,
Superintendent.

The Honorable the Colonial Secretary,
Auckland.

PAPERS RELATIVE TO THE APPORTIONMENT OF

No. 4.

MR. STAFFORD TO THE SUPERINTENDENT OF NELSON.

Colonial Secretary's Office,
Auckland, 6th March, 1861.

SIR,—

I have to acknowledge the receipt of your Honor's Letter, No. 2, of the 28th January last, referring to the appointment of an Arbitrator under the "Nelson and Marlborough Public Debt Apportionment Act, 1860," and stating that had you been able to consider it compatible with your duty to exercise the power of appointment, you would have selected John Sharp, Esq., of Nelson, for that appointment.

As in default of such appointment by the Superintendent, the law requires the Governor to appoint an Arbitrator, His Excellency has been pleased to appoint the gentleman named by your Honor, an Arbitrator on the part of the Province of Nelson under the above-named Act.

I have further to inform your Honor that the Superintendent of the Province of Marlborough has notified the appointment of David Monro, Esq., M.D., as Arbitrator on the part of that Province.

I have, &c.,

E. W. STAFFORD.

His Honor the Superintendent,
Nelson.

No. 5.

MR. GISBORNE TO DR. MONRO, NELSON.

Colonial Secretary's Office,
Auckland, 6th March, 1861.

SIR,—

I have the honor, by the direction of Mr. Stafford, to enclose a copy of a Letter dated the 27th December last from His Honor the Superintendent of the Province of Marlborough, appointing you to be an Arbitrator under the "Nelson and Marlborough Public Debt Apportionment Act, 1860."

In default of an appointment of an Arbitrator by the Superintendent of the Province of Nelson, His Excellency the Governor has been pleased, in pursuance of the provisions of the Act referred to, to appoint John Sharp, Esq., to be an Arbitrator.

I enclose for your information and guidance a copy of the above named Act.

I have, &c.,

W. GISBORNE,
Under Secretary.D. Monro, Esq., M.D.,
Nelson.

No. 6.

MR. GISBORNE TO MR. SHARP, NELSON.

Colonial Secretary's Office,
Auckland, 6th March, 1861.

SIR,—

His Honor the Superintendent of Nelson not having appointed an Arbitrator under the "Nelson and Marlborough Public Debt Apportionment Act 1860," His Excellency the Governor has been pleased, in anticipation of your willingness to act, to appoint you to be an Arbitrator under that Act, and I have the honor, by the direction of Mr. Stafford, to enclose a Warrant under His Excellency's hand to that effect.

His Honor the Superintendent of Marlborough has appointed David Monro, Esq., M.D., to be an Arbitrator under the same Act. I enclose for your information and guidance a copy of the above, named Act.

I have, &c.,

W. GISBORNE,
Under Secretary.John Sharp, Esq.,
Nelson.

No. 7.

DR. MONRO AND MR. SHARP TO THE HON. COL. RICHMOND, C.B.

Nelson, 17th April, 1861.

SIR,—

We, the undersigned, Arbitrators under "An Act to Apportion the Public Debt of the former "Province of Nelson between the Provinces of Nelson and Marlborough," being required by the said

Act to appoint an Umpire before entering upon our Arbitration, have agreed to ask you to act as Umpire in the matter referred to us.

We are induced to do so from a conviction that there is no one in the Province whose decision (should it be required) would be more generally deferred to as just and impartial, and we accordingly trust that you will accede to our wishes.

We have, &c.,

D. MONRO,
JOHN SHARP.

The Hon. Col. Richmond, C.B.
&c., &c., &c.

No. 8.

THE HON. COL. RICHMOND, C.B., TO DR. MONRO AND MR. SHARP.

The Cliffs, Nelson, 19th April, 1861.

GENTLEMEN,—

I have given your request, that I should act as Umpire in the Arbitration case between the Provinces of Nelson and Marlborough, great consideration; and being so intimately acquainted as I am with both Provinces, I had to ask myself the question, If I had any partial or undue leaning in favour of either Province? And being convinced that I have not, but that I can enter upon the investigation without any bias towards either Province, and give an impartial judgment, I do not hesitate, great as the responsibility is, to accept the office.

As this is no ordinary Arbitration, and no ordinary responsibility attaches to it (for I cannot conceal from myself that, should the decision be referred to the Umpire, upon my single judgment many thousand pounds may be transferred from one Treasury to another) I should wish to devote more than ordinary care and time to it, and would therefore suggest:—

- 1st. That I should be present at the investigation made by the Arbitrators, not of course to interfere, but to hear and make notes upon the evidence.
- 2ndly. I should wish (if neither of you object to it) to be present and take notes when the Arbitrators argue the matter. And,
- 3rdly. If the Arbitrators do not agree in an award, that each should state his case fully, and give the reasons for his decision to me in writing; this of course not to deprive me of my right by the Act to examine both evidence and documents if I consider it necessary to clear up any point.

Should you, Gentlemen, concur in these suggestions, I can enter upon the business at any time before the 25th May (when I proceed to Auckland to attend the Legislative Council) with the exception of about a week commencing the 13th of May, when the Diocesan Synod meets for the dispatch of business.

I have, &c.,

M. RICHMOND.

Dr. Monro and J Sharp, Esq.,
Arbitrators in the case between the
Nelson and Marlborough Provinces.

No. 9.

DR. MONRO AND MR. SHARP TO THE HON. COL. RICHMOND, C.B.

Nelson, 23rd April, 1861.

SIR,—

We have the honor to acknowledge the receipt of your Letter of the 19th instant, consenting, on certain terms, to act as Umpire in the matter of the Arbitration between the Provinces of Nelson and Marlborough as to the Apportionment of the Debt of the original Province of Nelson, under the "Nelson and Marlborough Public Debt Apportionment Act, 1860."

In accordance with your reply, we have the honor hereby to appoint you Umpire between us in the matter of the said Arbitration.

We propose to enter upon the said Arbitration to-morrow (Wednesday) morning, at ten a.m., at the Court House.

We have, &c.,

D. MONRO,
JOHN SHARP.

Col. Richmond, C.B., &c.,
Nelson.

No. 10.

DR. MONRO AND MR. SHARP TO THE HON. COL. RICHMOND, C.B.

Nelson, 25th May, 1861.

SIR,—

After taking a considerable amount of evidence, both oral and documentary, on the subject of the division of the Debenture Debt between the Provinces of Nelson and Marlborough, we find that we are unable to agree in a joint award; and there remains accordingly for us no alternative but to place the matter in your hands as Umpire. We propose respectively to address you in writing, giving our views of what is equitable in the matter; and we at the same time forward you our records of the evidence and the returns we have had from Public Departments.

As you were present at all our sittings, and heard all the evidence given, we presume you will not require to have the witnesses again before you.

We have, &c.,

D. MONRO,
JOHN SHARP.

The Hon. Col. Richmond, C.B.,

No. 11.

THE HON. COL. M. RICHMOND, C.B., TO HIS EXCELLENCY GOVERNOR GORE BROWNE, C.B.

Auckland, 27th July, 1861.

SIR,—

In compliance with the “Nelson and Marlborough Public Debt Apportionment Act, 1860,” I have the honor to forward to your Excellency my Award, as Umpire appointed to apportion the Debt between the Nelson and Marlborough Provinces.

I have, &c.,

M. RICHMOND,
Umpire.To His Excellency Governor Gore Browne, C.B.,
&c., &c., &c.

Enclosure in No. 11.

AWARD OF THE UMPIRE APPOINTED TO APPORTION THE DEBT BETWEEN THE NELSON AND MARLBOROUGH PROVINCES.

Having accepted the office of Umpire as provided by the 3rd Clause of the “Nelson and Marlborough Public Debt Apportionment Act, 1860,” and the Arbitrators appointed under that Act having failed to make and deliver their Award within the time therein specified, the duty devolves upon me of determining alone, the mode in which the Principal of the Debt of £29,000, as specified in the Schedule to the said Act, shall be apportioned between the said Provinces of Nelson and Marlborough.

Having attentively considered the various Returns and Accounts showing the manner in which the Loan was expended, as furnished to me by the Arbitrators, and having given due weight to the statements of the views of these gentlemen, in regard to the principles on which the decision should be made, it appears to me that it would be unfair and contrary to the spirit of the Act, to be guided solely by the amount of sums expended out of the Loan in the two Provinces respectively. It is obvious that had this been the basis upon which the decision should be made, nothing further would have been required than the employment of an accountant for the purpose of striking a balance between the Provinces.

I therefore assume that other considerations must be taken into account than the mere amount of money expended, and that a fair adjustment should be made according as each may, upon the whole, appear to have been benefitted by the raising of the Loan.

Any adjustment made on this basis must of necessity partake of the character of a compromise, and after giving the matter my best consideration, I decide that the said Debt of £29,000 shall be apportioned in the following manner:—

£21,500	to the Province of Nelson.
7,500	to the Province of Marlborough.
£29,000	

I am confirmed, in fixing these sums, by the fact, that the areas of the two Provinces stand as nearly as possible in this proportion to each other.

M. RICHMOND,
Umpire.

Auckland, 27th July, 1861.

No. 12.

Colonial Secretary's Office,
Auckland, 6th August, 1861.

SIR,—

With reference to former correspondence, I herewith transmit to your Honor copies of the documents noted in the margin respecting the Apportionment of the Public Debt between the Provinces of Nelson and Marlborough.

I have, &c.,

WILLIAM FOX.

His Honor the Superintendent,
Nelson.

Letter of similar tenor and date was addressed to the Superintendent of Marlborough.

APPORTIONMENT OF
UMPIRE.

Arbitrators to Col. Richmond, 17th April, 1861.
Col. Richmond to Arbitrators, 19th April, 1861.
Arbitrators to Col. Richmond, 23rd April, 1861.

UMPIRE'S AWARD.

Arbitrators to Umpire, 25th May, 1861.
Umpire to His Excellency the Governor, 27th July, 1861.

