

High Commissioner J.J.S. Garner on Joey Smallwood versus John Diefenbaker, 1959

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Introduction

In the first months of 1959, as the tenth anniversary of Newfoundland's union with Canada (31 March) approached, relations between St. John's and Ottawa were severely tested by two explosive controversies. One arose from the provincial government's handling of a tense loggers' strike in Newfoundland led by the recently arrived International Woodworkers of America (IWA); the other was triggered by the federal government's actions under Term 29 of the 11 December 1948 Terms of Union between Newfoundland and Canada.¹ On 1 April 1949, the day after the Terms of Union took effect, Joseph R. Smallwood, a Liberal, became the first Premier of the new province.² Smallwood had led the campaign for union with Canada and, as Premier, quickly established a seemingly iron grip on political power. At home, he was identified with the benefits brought by Confederation and the good times enjoyed by Canadians at large in the prosperous decade of the 1950s. Elsewhere in the country, the colourful Newfoundland leader, known as a modern Father of Confederation, became a household name. In 1949 (27 May), 1951 (26 November), and 1956 (2 October), Smallwood led the Liberals

to big provincial general election victories. At the same time, he enjoyed close connections with the national Liberal Party; beginning in 1953, he and J.W. Pickersgill, a “mainlander” returned in the federal election of that year for the Newfoundland constituency of Bonavista-Twillingate, formed a formidable two-horse team. When, in 1950, United Kingdom High Commissioner to Canada Sir P.A. Clutterbuck, a key British official while Newfoundland was under a London-appointed Commission of Government from 1934 to 1949, visited St. John’s and met with Smallwood, the Premier “commented . . . on the benefits of ‘democratic dictatorship.’”³ His words were well chosen: the success of union with Canada had given him uncommon power and authority, and he had come to personify his province.

In 1957, though, the political earth under Smallwood moved when Progressive Conservative (PC) national leader John Diefenbaker formed a minority government following a federal general election in which five of Newfoundland’s seven constituencies returned Liberal members. When, in 1958, another election was held, Diefenbaker led the PCs to the biggest majority ever seen in the House of Commons. In Newfoundland, the outcome in seats was the same as the year before — but there was no doubt that Smallwood had suffered an electoral reverse, albeit at one remove. He was still in full command in the Newfoundland House of Assembly but now faced the prospect of having to fight the next provincial election with his PC opponents in power in Ottawa — and without his customary access to the levers of patronage and power in the nation’s capital. It is in this political context that the federal–provincial controversies of 1959 must be understood.

Smallwood’s difference with Ottawa in relation to the IWA strike was ignited when the Diefenbaker government refused a provincial request to send RCMP reinforcements to Newfoundland, a decision that led to the resignation, on 12 March 1959, of RCMP Commissioner Leonard Hanson Nicholson.⁴ In the case of Term 29 — a provision designed to adjust Ottawa’s financial support to Newfoundland based on the province’s fiscal accommodation to Confederation — Smallwood claimed that Newfoundland had been treated arbitrarily and was

being short-changed. His high-octane campaign against Diefenbaker divided the Newfoundland PC Party, a provincial rights wing of which broke away to form the short-lived United Newfoundland Party. Capitalizing on the twin crises he had brought to rolling boil, Smallwood called a provincial election for 20 August 1959 and won another solid majority. By the time he next faced the voters in a general election — 19 November 1962 — Diefenbaker was leading a shaky minority government,⁵ which in 1963 was replaced by a minority Liberal administration under Prime Minister Lester B. Pearson.⁶

In the period of Liberal hegemony under Louis St. Laurent, Prime Minister from 1948 to 1957, Smallwood burnished his credentials as a Canadian. But after the PCs came to power in Ottawa in 1957, he showed himself equally adept at beating the drum of provincial rights. In all this he set a pattern that his successors to the premiership of the province have emulated in one way or another ever since. Smallwood was a political chameleon: as circumstances required — and to John Diefenbaker's cost — he readily changed roles from living Father of Confederation to champion of hard-done-by but gallant little Newfoundland. He knew well how to stir the embers of grievance and betrayal, always smouldering in Newfoundland politics.

Not surprisingly, the federal–provincial feuding between Smallwood and Diefenbaker was closely followed at the United Kingdom High Commission in Ottawa. The account of events that follows, dated 13 April 1959 and sent to London by J.J.S. Garner,⁷ the High Commissioner in residence at Earncliffe,⁸ is both comprehensive and insightful. It was addressed to the Earl of Home, Secretary of State for Commonwealth Relations, and is presented here, with permission, as a useful source for understanding a formative time in modern Newfoundland political history. The archival reference to Garner's dispatch (No. 10) is: The National Archives of the UK, DO35/10795.

Document

My Lord:

Ten years have passed since the people of Newfoundland elected, by a small majority, to form the tenth province in the Canadian Federation. Union with Canada was not easily achieved. It was effected in the face of strong local opposition and that it was accepted in Newfoundland was due primarily to the efforts of the ebullient Newfoundland journalist, broadcaster and union organizer, Mr. J.R. Smallwood, who as the first Premier of that Province has guided its fortunes to the present day.

2. These ten years have on the whole gone well for Newfoundland and union has brought her tangible benefits, including assistance from Canada in one form or another to the extent of some \$300 million. The benefits of the welfare state have meant much to the prolific island and even former opponents of union now recognise that it has been in the Province's best interests. The population, which had previously been declining, is showing a steady increase and the standard of living has been consistently rising. Newfoundland has benefited also from the presence of United States bases and has attracted worthwhile investment, of which the United Kingdom has provided a prominent share. A large part of the credit for Newfoundland's advance is no doubt due to Mr. Smallwood, but he has been skilful in turning to his own advantage the full reward. It is true that Newfoundland's standard of living and of amenities is still well below that of the rest of Canada, that scandal has attached to some of the development which has taken place there and that much of it has, in the words of the recent Royal Commission, had "mixed and sometimes transitory success."⁹ The economy of the Province is still precarious and over-dependent on its two main industries, logging and fish. But progress has been made and it can safely be said that union has on the whole been a success.

3. It was therefore both unfortunate and unexpected that the tenth anniversary of union should have been marred both by a major disturbance within the island and by serious friction between Ottawa

and St. John's, one result of which has been the filing by the Government of Newfoundland of two lawsuits against the Federal Government.¹⁰ Newfoundland is consequently now labouring under a sense of grievance against those in control in Canada and is feeling, as one newspaper has put it, that she is "still a stranger." The Tenth Anniversary was celebrated in the Province with public buildings draped in black.

4. The seeds of the present troubles were sown some two years ago when an American trade union, the International Woodworkers of America, entered the Province and embarked on a long and costly campaign to recruit the Newfoundland loggers hitherto organised in independent but not very effective trade unions. The campaign achieved a partial success some six months ago, when the I.W.A. were certified as the official bargaining agent for the loggers employed by one of the two logging companies in the island, the Anglo-Newfoundland Development Company.¹¹ (The other major Company, Bowaters at Corner Brook, has not been brought directly into the dispute). A dispute over wages and hours soon arose between this Company and the I.W.A., and a strike ensued, accompanied by extensive violence. Mr. Smallwood, together with the majority of Newfoundlanders, held the belief that the I.W.A. had invaded the island for their own selfish reasons, namely to tie up the last remaining paper-making area in North America not controlled by them, to make sure that supplies from Newfoundland would not be available in the event of their calling a strike elsewhere in the continent. He was also concerned to avoid the possible closing of the pulp and paper companies established in Newfoundland, which were already marginal producers and rumoured to be likely to throw in the sponge if faced with increases in costs. After the strike had gone on for over a month and serious violence had occurred, he therefore chose to intervene directly in the dispute. With the unanimous backing of the Newfoundland Assembly he passed legislation to decertify the I.W.A.¹² and then proceeded personally to create a new Union which he urged the loggers to join.¹³ He also secured the passage of more general

legislation giving the Government power to disband unions controlled by officers convicted of heinous crimes.¹⁴ His actions can be readily criticized on several grounds, but they appear to have been successful; the I.W.A. is now at a fraction of its former strength in Newfoundland, while Mr. Smallwood claims that his Union now numbers some 10,000 loggers. Although a strike continues, violence has ceased and the new union has concluded a mutually acceptable agreement for a pay increase with the Anglo-Newfoundland Development Company. Most of the loggers are now back to work and supplies of wood for the paper mills are assured for the season.

5. To this extent the trouble was confined to Newfoundland, but it was nevertheless not long before the Federal Government became embroiled. At the time of writing three main disputes have arisen between the Newfoundland and Federal Government. All of them, in my view, show faulty handling on the part of the Government in Ottawa.

6. First, Mr. Smallwood's legislation decertifying the I.W.A. is, like all Provincial legislation in Canada, subject to Federal disallowance.¹⁵ The right of disallowance has been sparingly used in recent years and when it has been exercised, it has mostly been to annul laws which appeared to the Federal Government to exceed the responsibilities of Provincial Legislatures. It would nevertheless have been possible on this occasion for the Federal Government to have vetoed Mr. Smallwood's legislation on the readily comprehensible grounds that it constituted an infringement of the basic right of free association. There was inevitably fury in the trade union movement throughout Canada at the legislation and considerable misgiving among liberal opinion. Faced with a dilemma, the Federal Government have got the worst of both worlds. No doubt hoping to curry favour with the trade union world, they indulged in strong criticism of Mr. Smallwood's action and made ominous threats about the possibility of disallowance. So far however they have taken no action. They have thus incensed opinion in Newfoundland and secured no thanks from the unions.

7. A second and more serious dispute has arisen over the use of the R.C.M.P. in Newfoundland. The strike was accompanied by

considerable violence, and a police constable was killed.¹⁶ The police forces available in Newfoundland included some 200 Mounted Police who appear to have carried out a difficult task with very commendable efficiency and impartiality. In February, the R.C.M.P. considered that some reinforcement was necessary and, in accordance with the normal practice, an application was sent forward to the Attorney-General of Canada¹⁷ for 50 additional men. The Commissioner of the R.C.M.P.¹⁸ secured the Minister's authority to proceed and the men were collected. Later that day the Minister withdrew this authority. The contract provides that reinforcements shall be sent if "having regard to other responsibilities and duties of the force such increase is possible."¹⁹ Subsequently in Parliament, Mr. Fulton maintained that he had come to the conclusion, after consultation with his colleagues, that "it was not possible to send the additional men requested without prejudicing the other responsibilities and duties of the force" (i.e. in the rest of Canada).²⁰ It seems very doubtful law whether the terms of the contract admit of the Federal Government exercising a discretion in this way; moreover the implication of the Government's stand was that the R.C.M.P. reinforcements would bring the force into disrepute in the rest of Canada. In any case it seems to be dangerous for a Minister to overrule the advice of those responsible for law and order. The Commissioner of the R.C.M.P. took the view that "the matter of law enforcement should be isolated and dealt with on its merits," apart from "other issues."²¹ He also "could not escape the conclusion that failure to supply reinforcements was a breach of contract."²² He tendered his resignation which has been accepted.²³ The Newfoundland Government, for their part, are now suing the Federal Government for breach of contract and it is quite on the cards that the lawsuit will go against Ottawa.²⁴

8. While controversy over these matters was at its height, Mr. Diefenbaker most peculiarly chose that very moment to announce the Federal Government's intentions over future aid to Newfoundland. The now notorious Article 29 of the terms of Union had required that a Royal Commission should be set up within eight years to review the state of Newfoundland's finances and to determine what additional

aid, if any, should be granted. The Commission was duly appointed²⁵ and recommended last year that special aid should continue at a figure of \$8 million per annum less the transitional grant and that when this expired in the year 1961–62 should “thereafter” be \$8 million per annum.²⁶ Faced with this recommendation, it would have been understandable, and indeed proper, if Mr. Diefenbaker had refused to commit his and subsequent Governments to providing special aid for an indefinite period. He could easily have accepted the Commission’s recommendations for a set period and promised a further review in a few years’ time. Instead he chose to announce the “final and irrevocable” termination of special aid at the end of the fiscal year 1961–62.²⁷ This has of course triggered off a further furore in Newfoundland and Mr. Smallwood has been loud in his protestations that it is a breach of faith and of contract. Feelings are now such that any small difference between Ottawa and St. John’s is liable to be inflated out of all proportion and indeed a comparatively minor dispute over housing has now occasioned a second lawsuit.

9. There is of course no likelihood that Newfoundland will secede from Canada. The fuss will no doubt eventually die down and Canada will, in Mr. Smallwood’s words, soon “re-assume her glorious role of ignoring Newfoundland.” But the impression that remains is one of extraordinary ineptness in Mr. Diefenbaker’s handling of these various issues, all of which could easily have been avoided. Indeed one cannot escape the feeling that a measure of personal spite entered into all this. Newfoundland was the only Province to return a majority of Liberals at the last General Election and Mr. Diefenbaker certainly has no cause to love Mr. Smallwood. It is puzzling to discover what Mr. Diefenbaker hoped to achieve, apart perhaps from pleasing trade union circles. Some of the results that he has in fact achieved are:—

1. [H]e who prides himself on his political flair and mastery in handling people has pitted himself against the most wiley and astute politician in all Canada — and has come out of the contest second best.
2. He has solidified opinion in Newfoundland behind Mr.

Smallwood whose popularity in the island was never higher. Indeed it has been said — and it is very nearly true — “there is not a single Tory left in Newfoundland.”

3. He has also overlooked the feeling of Maritime solidarity. Throughout the Maritime Provinces there is admiration for “Joey” Smallwood’s courage and many identify themselves with his stand against an unsympathetic centre.

4. In the past, Mr. Diefenbaker has projected himself as the defender of the “little man,” of minorities. His appearance in a very different role has lost him some respect and has robbed him of much of his dignity. (When Mr. Smallwood came to Ottawa to address a record-breaking meeting of the Canadian Club,²⁸ not one representative of the Government was present and Mr. Diefenbaker never invited Mr. Smallwood to see him during his visit).

10. No one would pretend that Mr. Smallwood has all the right on his side; he is a tricky customer, much of his argument is specious, much of his action theatrical. Indeed his fellow Liberals both in Ottawa and elsewhere are very much in two minds about him. And Mr. Diefenbaker may have justified his own behaviour to himself on the grounds that he was supporting civil rights, the freedom to associate and other notions that are dear to him. But his decisions have shown the signs of hysteria rather than calm and wise statesmanship, and have revealed his weaknesses in an even starker light than did the Arrow affair (on which I have just reported).²⁹ It is no doubt premature to talk of a coffin for a Government elected with such an overwhelming majority just a year ago, but these are pretty outside nails.

11. I am sending a copy of this despatch to United Kingdom High Commissioners in other Commonwealth countries, to Her Majesty’s Ambassadors in Washington and Dublin and to the United Kingdom Delegations to the United Nations and to N.A.T.O.

Notes

- 1 For the political history of Newfoundland in the period, see my “Party Politics in Newfoundland, 1949–71: A Survey and Analysis,” in James Hiller and Peter Neary, eds., *Newfoundland in the Nineteenth and Twentieth Centuries: Essays in Interpretation* (Toronto: University of Toronto Press, 1980), 205–45. For a detailed account of the Term 29 controversy, see Raymond B. Blake, *Lions or Jellyfish: Newfoundland–Ottawa Relations since 1957* (Toronto: University of Toronto Press, 2015), 21–57.
- 2 For events leading to the formation of the first Newfoundland provincial government, see Paul Bridle, ed., *Documents on Relations between Canada and Newfoundland* (Ottawa: Department of External Affairs, 1984), vol. 2, 1940–1949, 1570–1604.
- 3 Peter Neary, “A more than usual interest,’ Sir P.A. Clutterbuck’s Newfoundland Impressions, 1950,” *Newfoundland Studies* 3, 2 (1987): 258.
- 4 1904–1983. He was the tenth commissioner of the RCMP and served in this office from 1 May 1951 to 31 March 1959.
- 5 As a result of the federal general election of 18 June 1962.
- 6 The government changed hands, from PC to Liberal, following the federal general election of 8 April 1963.
- 7 Joseph John Savile Garner (1908–1983) attended Highgate School, London, and Jesus College, Cambridge. He became a civil servant in 1930 and rose to the rank of Deputy Under-Secretary of State in the Commonwealth Relations Office. He was United Kingdom High Commissioner to Canada from 1956 to 1961. Thereafter he was Permanent Under-Secretary of State in the Commonwealth Relations Office and Head of Her Majesty’s Diplomatic Service. In 1969 he was created Baron Garner of Chiddingley.
- 8 Earnscliffe, the Ottawa residence of Sir John A. Macdonald, has been the home of the United Kingdom High Commissioner to Canada since 1930.
- 9 Royal Commission on Newfoundland Finances Under the Terms of Union of Newfoundland with Canada, *Report* (Ottawa; Queen’s Printer, 1958), 5. The report was dated 31 May 1958.

- 10 See “Newfoundland Seeks Damages in RCMP Case,” *Globe and Mail*, 1 Apr. 1959, 1; “Smallwood Announces Second Ottawa Suit,” *Globe and Mail*, 6 Apr. 1959, 2.
- 11 Its pulp and paper milling operation was located at Grand Falls.
- 12 *Statutes of Newfoundland 1959* (St. John’s: Queen’s Printer), The Trade Union (Emergency Provisions) Act, 1959, 6–7.
- 13 The Newfoundland Brotherhood of Wood Workers led by C. Max Lane, General Secretary of the Newfoundland Federation of Fishermen and Liberal Member of the House of Assembly for White Bay North.
- 14 *Statutes of Newfoundland 1959*, The Labour Relations (Amendment) Act, 1959, 1–5.
- 15 For the federal power of disallowance see the Constitution Act, 1867, sections 55 and 56 (<http://laws-lois.justice.gc.ca/eng/Const/page-1.html>).
- 16 Constable William Moss of the Newfoundland Constabulary.
- 17 (Edmund) Davie Fulton (1916–2000) was Minister of Justice and Attorney General in the Diefenbaker government, 1957–62.
- 18 Leonard Hanson Nicholson.
- 19 See “Texts of Letters in Nicholson–Fulton Dispute over RCMP Role,” *Globe and Mail*, 17 Mar. 1959, 12.
- 20 House of Commons, *Debates*, 16 Mar. 1959, 1961.
- 21 “Texts of Letters,” *Globe and Mail*, 17 Mar. 1959, 12.
- 22 For Nicholson’s exact wording, see *ibid.*
- 23 Nicholson’s letter of resignation was dated 12 March 1959; Fulton’s letter accepting the Commissioner’s resignation was dated 16 March 1959 (“Texts of Letters,” *Globe and Mail*, 17 Mar. 1959, 12). Nicholson’s resignation was effective 31 March 1959.
- 24 See “Newfoundland Seeks Damages in RCMP Case,” *Globe and Mail*, 1 Apr. 1959, 1.
- 25 It was chaired by Chief Justice of New Brunswick John B. McNair and had as its other members Chief Justice of the Supreme Court of Newfoundland Albert J. Walsh and University of British Columbia economist John J. Deutsch.
- 26 Royal Commission on Newfoundland Finances, *Report*, 40.
- 27 House of Commons, *Debates*, 25 Mar. 1959, 2215–17.

- 28 For this event, see “A Valiant Try Made by Finance Minister,” *Globe and Mail*, 11 Apr. 1959, 8.
- 29 On 20 February 1959, the government had announced the cancellation of work on the Avro Arrow (CF-105), a Canadian fighter jet under production at A.V. Roe Ltd, Toronto.