

# J.R. Smallwood and the Negotiation of a School System for Newfoundland, 1946-48

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THOSE WHO CONTEMPLATE educational reform in Newfoundland usually bring up the denominational system<sup>1</sup> as their principal target. Two royal commissions on education focused on the system and concluded their investigations by recommending changes to it (Newfoundland, 1967; Newfoundland 1992).<sup>2</sup> Yet supporters of reform admit that changes to the system are difficult due to the constitutional provisions in Term 17 of Newfoundland's Union with Canada in 1949. They thus find themselves on the horns of a dilemma.

The constitutional document reads as follows:

17. In lieu of section ninety-three of the British North America Act, 1867, the following Term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges,<sup>3</sup> that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland provided for education,

(a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and

(b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grants being distributed on a non-discriminatory basis (Canada 1948b).

The conventional interpretation holds that this document is the basis of the 1949 framework in which all schools were, as understood somewhat incorrectly,<sup>4</sup> under

the separate or joint control of denominations. In this interpretation, the 1949 framework is as unalterable as the constitution is inviolable unless the denominations concerned agree to renounce their rights and privileges. And indeed the recommendation of the first royal commission to reform the Department of Education was implemented via the government's negotiation with the denominations. As well, the "constitutional" deadlock subsequent to the second royal commission's advice to restrict denominational role in schools to religious education is deemed to be due to an as-yet-unsuccessful negotiation. Very seldom, however, do subscribers to this conventional interpretation suspect whether an alternative interpretation is possible — for instance, whether the constitutional document disallows a non-denominational or even a secular system of education.

Actually, a quick reflection on a few historical facts is sufficient to provoke suspicion. Consider, first, that it was Joseph R. Smallwood, the Secretary to the Ottawa delegation, whose "great drive and brilliance became apparent when, *single-handedly*, he performed" the great task of negotiating the terms of confederation (McEvoy 1974, 2, emphasis added). Many of the terms, including the 17th, were based on Smallwood's ideas. Later, it was Smallwood who led the government of the new province for over two decades—a period long enough to establish some *modus operandi* of the government vis-à-vis education. More importantly, it was Smallwood himself who initiated the conventional interpretation of Term 17 when, upon returning from the Ottawa mission, he stated before the National Convention, "[T]his clause<sup>3</sup> protects our present school system, leaves it just like it is" (Harrington and Hiller 1990, 1806). Finally, as we will see shortly, it was also Smallwood himself who, during the negotiation in Ottawa, had characterized "practically all" Newfoundland schools to be denominational. These facts suggest the likelihood of his political influence upon the interpretation he advanced and Newfoundlanders now take for granted. This likelihood gains force when one considers the possible position of Smallwood's counterparts at the negotiation table. The British North America Act of 1867 provided in Section 93 for the provincial legislature's jurisdiction in education — on condition, where applicable, that the educational rights and privileges of certain religious minorities were not infringed upon. The Canadian officials, if they abided by this provision, could not agree to place all public schools of the new province under a few denominations' exclusive control, for doing so would make provincial jurisdiction pointless. Furthermore, the very idea of protecting minority rights presupposed the existence of a non-denominational or even secular mainstream system of schools. The plausible position of those officials in agreeing to Term 17 surely was that the latter conformed to the principles of Section 93 (see Appendix I for elaboration). The existing interpretation, then, could not be valid from their point of view. In fact, the process of negotiating Term 17 — which has scarcely been exposed to scholarly inquiry — endorses this logical inference.

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As is well known, the negotiation of the terms of the 1949 confederation took place in Ottawa between Canada's cabinet committee — the Interdepartmental Committee on Newfoundland — and two successive delegations from Newfoundland. The first delegation was dispatched by the National Convention to "ascertain what fair and equitable basis might exist" for the union. It was given no authority to negotiate or conclude an agreement that would bind the Convention or the people of Newfoundland. As Jamieson (undated, 16) points out, negotiation occurred nevertheless and the delegation "was deeply involved in complex talks on every conceivable aspect of the proposed union."<sup>6</sup> The delegation arrived in Ottawa on 24 June 1947. The first meeting with the Canadians was held the next day. After a week of study break, the negotiation continued until 29 September. The resultant agreements were offered on 29 November by the Prime Minister of Canada to the Governor of Newfoundland as "Proposed Arrangements for the Entry of Newfoundland into Confederation" (Canada 1948a). The National Convention examined the document and, in effect, rejected it on 28 January 1948 by deciding not to add confederation, based on the proposed arrangements, to the ballot paper in the upcoming national referendum. Subsequent to British intervention and the victory of the confederates in the second referendum of 22 July 1948, another round of negotiation commenced on 6 October between the same cabinet committee and a new delegation, this time appointed by the Commission government. The conclusions from this second round of negotiation were finalized as the Terms of Union on 11 December. The government of Canada sought amendments to the BNA Act in order to implement this document as a "Schedule." On 11 February 1949, the House of Commons passed Bill 11 thus tabled. A month later, the British parliament enacted the amendments.

As far as the education clause is concerned, however, a full agreement was reached during the first round of negotiation in 1947. And no major revision was made in 1948. The first round of negotiation moved smoothly and quickly because both parties agreed on the principles on which to draft the clause. To explain this, it is useful to consider the positions of the negotiating parties.

For Canada, generally speaking, bringing Newfoundland into confederation was a task waiting since 1867. Prime Minister W.L. Mackenzie King had personal reasons as well for attempting it. Since his government's popularity was low at that time, he needed some measure to boost it although he was personally considering retirement. Louis St. Laurent — his Minister for External Affairs who headed Canadian negotiators — estimated Newfoundland's confederation would draw support from some 80 percent of Canadian voters (Pickersgill 1970, Vol. 4, 76). In a broader context of international politics, Canada and Great Britain had already agreed that confederation was the viable solution to "the Newfoundland problem" (Neary 1985; Neary 1988; see also Forbes and Muise 1993). Not long before, in fact, Canada had begun to maintain in St. John's a High Commissioner, who at the

time of negotiation played a pivotal role in shaping its strategies and tactics (MacKenzie 1983).

At the same time, the King government had a couple of other concerns. Although Newfoundland was to be taken into confederation "as a liability" (Pickersgill 1970, Vol. 4, 49), the government did not want to bear unnecessary financial burdens, nor did it wish to allow Newfoundland the kind of concession that might stir up discontent among existing provinces, especially those on the Atlantic seaboard. The evidence for the former concern is the composition of the cabinet committee. Many of the ministers who participated in the negotiation held portfolios related to finance and the economy. The group of bureaucrats involved in the practical areas of the negotiation were also selected from finance-related offices. Of the "core group" of eight officers MacKenzie (1983, 310) identifies, two were from the Department of Finance, two from the Bank of Canada, and one from the Department of Reconstruction and Supply.<sup>7</sup> Overall, the King government was reluctant to yield to Newfoundland on financial and other issues falling under federal responsibility, while being considerably more flexible on matters belonging to provincial jurisdiction, education for instance.

For the Newfoundland delegation, meanwhile, joining Canada, the feasibility of which the delegation was commissioned to explore, was a somewhat complicated matter. It was, above all, only one of two main options for replacing the incumbent Commission of Government. Even as an option, it was at that time not as popular as the other option of restoring responsible government. Moreover, those who preferred the responsible government option were demanding immediate withdrawal of the delegation.

The Commission of Government had been appointed in 1934 by the British Colonial Office upon the colony's falling into financial troubles in the wake of the Great Depression. A pledge attached to this appointment, as written in the Letters Patent, 30 January 1934, was that the Commission would be in place until the colony became financially "self-supporting." Relatively aloof to local interests — or "malign influences" (Dyck 1986, 49) which were widely blamed for the financial disaster — the Commission performed fairly well although often criticized by the local elite (see McCann 1987). Moreover, World War II provided a great opportunity for the colony to restore financial self-support.<sup>8</sup> When the war was over in 1945, ending the Commission government emerged as a burning issue in Newfoundland politics. The National Convention was elected in June 1946 to address this issue. Naturally, the public appears to have been concerned more with ending the era of appointed government than with beginning a new era. The existence of the appointed government was a disgrace to those who felt proud of a century of self-government and other traditions of their country. A patriotic sentiment drove many to demand return to self-government or keeping traditions and traditional institutions intact.<sup>9</sup> In this vein, many Newfoundlanders, especially those who

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rejected the idea of confederation, took the delegation to be an attempted "sell-out" of their country.<sup>10</sup> The delegation could not ignore this widespread sentiment.

The delegation regarded education as a good issue to exploit. The denominational system of public education was strongly established in Newfoundland. In few other parts of the British Commonwealth did churches have such an extensive control of "public" schools. As early as 1916, E.P. Roche, the Roman Catholic Archbishop of St. John's, had admitted this point while talking to his clergy (FitzGerald 1992, 46). As we will see soon, moreover, the National Convention had already fully approved of the denominational arrangement almost unanimously as "the best under the circumstances." Thus while Newfoundlanders had a consensus on keeping the denominational arrangement of schools,<sup>11</sup> the delegation came to notice that Canada's BNA Act stipulated education as a provincial matter. Furthermore, Canadian officials demonstrated flexibility in accommodating the delegation's wishes regarding education. Here the delegation saw the possibility of securing the unique tradition of Newfoundland and indeed made an effort to turn the possibility into a reality. It thus sought to produce evidence that it did not abandon traditions or "put Newfoundland on sale" but, on the contrary, ensured that Newfoundland "as a self-governing Province of Canada ... continue[d] to enjoy the right to [its] own distinctive culture."<sup>12</sup> In the end, the delegation claimed, as in Smallwood's already quoted remark at the National Convention, that the clause thus negotiated guaranteed the preservation of the denominational system of education.

Delving a little deeper into historical sources, however, reveals that even more complicated political interests were associated with the consensus on keeping the denominational system. As already noted, there was, on one hand, the widespread aspiration for self-government; on the other, there was the drive towards confederation under the energetic leadership of the "politically ambitious Smallwood" (Neary 1988, 283), who, after allying with the semi-retired and reluctant F. Gordon Bradley,<sup>13</sup> began to invite influential individuals like Frederick Rowe (1988, 110) into his presumptive provincial cabinet well before confederation was put to referendum. Those who supported self-government took the denominational arrangement of schools to be part and parcel of the Newfoundland tradition. Exactly for this reason, those who sought confederation as well — Smallwood in particular — attempted to defend the arrangement in order not to provoke bad feelings among the supporters of self-government as well as those who had vested interests in denominational schools, the Roman Catholic Church in particular. Admittedly, it is hard to generalize from the personal positions taken by the confederates regarding the denominational arrangement. Nevertheless, given the crude observation that confederation was supported by Protestants and opposed by Roman Catholics, and that some Protestants, like the Executive Officer for the United Church (see below), did not personally favour the denominational system, at least some confederates appear to have been against the system personally. Bradley appears to

have been one such confederate.<sup>14</sup> Yet Smallwood and Bradley chose not to disclose any negative views.<sup>15</sup> Thus, both of the conflicting political interests commonly gave the denominational system unconditional support, without granting a proper consideration to education itself. This claim can be documented by examining the way the National Convention and Smallwood — who “master-minded the entire affair” (Jamieson, undated, 16) — dealt with the denominational system.

The mandate of the National Convention was, specifically, to assess the financial and economic state of the colony in order to decide whether or not conditions were mature for terminating the Commission of Government and, if so, to recommend alternative forms of government for submission to referendum. Since most people wanted to see the end of the Commission, and since the economy had obviously improved enough to justify this desire, there was already a consensus to end the Commission among the delegates from the moment they were convened on 11 September 1946. The Convention appears to have worked only to corroborate the consensus when it set up small committees to examine the situation of the colony. The Committee on Education was in the same boat.

The report of this Committee, drafted by Smallwood himself, was submitted to the Convention on 28 October. It was laden with ample evidence for improvement in education. Yet “improvement” here is a highly technical word because it refers only to the aspects of education that are “strictly limited in character” (Harrington and Hiller 1990, R88). As the report acknowledged,

The Committee ... felt its own inability to discuss education philosophically, or to approach it professionally. No member of the Committee felt competent to deal with education either as an art or as a profession. It was decided at the outset to restrict our approach to the economic side.... [T]he members felt that while as members of the National Convention itself they would have ultimately to come to ... judgement, as members of the Committee they had neither the general national data, nor even the mission, to consider the wider question of the country's ability to carry educational services (*Ibid.*).

The questions chosen to address as to “the economic side” were: “What does education cost the treasury now, and what has it cost in the past? Is the country getting adequate results for the money spent? Could the same results have been got with less expenditure? Will the same level of expenditure have to be maintained in future, or will expenditure be higher or lower than now?” (*Ibid.*). The Committee, however, did not properly address even these “economic” questions. It merely collected statistical data from 1920 to 1946 in terms of educational expenditure, numbers of students and graduates, teachers, schools and classrooms, teacher salaries, and services introduced into schools.

The collected data displayed annual increases in expenditure except during the financially-troubled period of 1931-1935. Such data produced an impression that

education had been getting better over an extended period of time. With this positive impression, the Committee found no trouble in proceeding to commend the existing denominational arrangement of schools and the system of spending government monies for public education through denominational authorities. The report concluded that the denominationally-controlled Department of Education had done a "remarkably good job" in funding schools according to the "present scale of expenditure" (*Ibid.*, R100). Nowhere in the report were the merits and demerits of the denominational arrangement brought under scrutiny, nor was an attempt made to decide whether "a remarkably good job" was possible with a non-denominational structure.

The debate on this report on 6 November 1946 also reveals an unconditional attitude in accepting the denominational arrangement. Smallwood, for instance, stated that non-denominational state education meant "children's subjection to propaganda" (*Ibid.*, D319). He did not elaborate on this. Malcolm L. Hollett, the chair of the Committee who preferred responsible government to confederation, also made an unreservedly supportive yet equally ungrounded comment that the denominational arrangement had "the approval of the people ... worked out very well ... [was] entirely satisfactory, and should not be changed" (*Ibid.*, D327). A large majority of the members who spoke out on the issue made similar statements. Throughout the debate, only two members voiced their negative views of the arrangement, stating that it was "wasteful and uneconomical" and that it "retarded" education in Newfoundland (*Ibid.*, D327).<sup>16</sup> Their voices were immediately silenced by subsequent defenders. The general mood of the Convention was well reflected in Michael Harrington's conclusion of the debate: "The present system is the best under the circumstances, and it does not come within our province as a Convention to interfere and supplant it by any means" (*Ibid.*, D339).

The nearly unanimous acceptance of the existing denominational system clearly indicated the prevailing attitude not to give reasons for prolonging the Commission era by digging into existing educational problems. True, the group of members who desired a return to responsible government often bitterly criticized the Commission government. On the other hand, the confederates attacked the vocal leaders of that group, like Peter Cashin, for their mismanagement of responsible governments in the pre-Commission era (see Webb 1987). Neither of the two groups, however, brought up the system as an issue.<sup>17</sup>

The commonly supportive attitude towards the denominational system foreshadowed a potential battle as the issue of confederation attracted greater attention. Like it or not, confederation would affect the status quo in one way or another. The denominational system of education — "the best under the circumstances" — would also be affected in some ways. Obviously, then, the issue of confederation would arouse fear among those Convention members who had approved of the denominational system and among those outside the Convention who had a stake in denominational schools. This fear could unite a large number of individuals and

organizations against confederation. Smallwood, who saw his political fortune dependent on a successful campaign for confederation, was keenly concerned with this potential fear. And he took the utmost precaution not to inflame it.

In seeking confederation, Smallwood thought (1973, 306), the worst scenario was one in which the campaign got entangled in “a religious dogfight.” He arrived at this thought, as he recollects, earlier in 1946 after failing in his attempt to persuade the Roman Catholic Bishop J.M. O’Neill to join the confederation cause. He saw the most worrisome source for the potential dogfight in the Roman Catholic Church’s fear that what it had gained under the old system — especially its rights and privileges in schools and entitlement to state funds — might be taken away if Newfoundland’s traditional religious communities were placed within the overly Protestant society of Canada. Bishop O’Neill told him that the confederated Newfoundland would find itself without monies to pay what it had always paid towards the cost of operating church-owned schools (*Ibid.*).<sup>18</sup> Smallwood recollects that he had this fear confirmed later on by conversing with Archbishop Roche. He writes,

I was acutely conscious of the precious store placed by His Grace, and indeed by the Roman Catholic Church everywhere else, upon *the demanded right of the Church to control their schools*; and I was all too aware of the importance of that issue in Newfoundland. A very large part of the cost of operating schools in Newfoundland was borne by the Newfoundland Government, though the Government didn’t itself own a solitary school in the country—they were all, without exception, owned by the various religious denominations. These denominations undoubtedly enjoyed more rights and privileges than did their counterparts in any part of Canada; and the Archbishop feared, so I believe, that this system would be gravely imperilled if Confederation with Canada ever came about (*Ibid.*, emphasis added).

He became “implacably determined to see the terms of ... Newfoundland’s union with Canada would contain absolute protection of *the existing rights of the churches to public funds* for the protection of their schools” (emphasis added). “In short,” he goes on, “I vowed that the status quo should be maintained in the most unalterable way that could be found and that this should be covered within the actual terms of union” (*Ibid.*).

Smallwood’s recollection of his determination at this time may simply be hindsight. At least, however, it is clear that his resolution to allay the fear of the Roman Catholic Church by preserving the denominational arrangement was intended to weaken resistance and, perhaps, gain support from the hierarchy of that church in his effort to bring Newfoundland into Canada.

There is, then, a clear discrepancy between the political strategy of Smallwood — and the Ottawa delegation of which he was the most active member — and Canada’s constitution. The reason is that the latter protected only the educational rights and privileges of Her Majesty’s Roman Catholic subjects in a region of



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Protestant majority, and Her Majesty's Protestant subjects in a region of Roman Catholic majority. It did not protect the rights and privileges of the Roman Catholic/Protestant churches *per se*, or their leaders. This discrepancy was evidently not discussed throughout the actual process of negotiation.

Smallwood's effort to keep to his resolution (as stated above) is obvious in the process of negotiation. When the delegation — consisting of five confederates and two anti-confederates<sup>19</sup> — met with Canadian officials, the latter provided them with a reference paper outlining the probable impact of the federal constitution upon Newfoundland as a province. In accordance with the principles of Section 93, this document stated that "the provincial legislatures have exclusive authority with regards to education, subject to certain safeguards for the rights of religious minorities."<sup>20</sup> The word "safeguards" brought immediate reaction. In a memorandum submitted to the Canadian officials, the delegation asked: "Could we have a comprehensive statement of the position of the Province's exclusive jurisdiction over education? Would confederation affect the existing position in Newfoundland in any manner or degree? Would any change whatever be necessitated by our becoming a Province?"<sup>21</sup> The Canadians responded by asking specifically what position Newfoundland had at the time with respect to education. In response, Smallwood brought up the issue of the denominational system. A draft typescript of this second memorandum is in Memorial University's Centre for Newfoundland Studies Archive. In it, Smallwood outlines Newfoundland's position:

With extremely few exceptions all schools are owned and operated by the principal religious denominations — Church of England, Roman Catholic, United Church, Salvation Army. There are two or three schools operated between them by the Seventh Day Adventist and other small denominations. All of these schools, except those noted, are financed exclusively, or for the most part, by grants from the Public Exchequer of the Newfoundland Government. The education grant is divided amongst the denominations on a school-attendance basis, and is managed by superintendents nominated by denominations concerned, under the general supervision of the Department of Education. In short, Newfoundland schools, with insignificant exceptions, are all "separate" schools financed almost exclusively by the Government of Newfoundland.<sup>22</sup>

Then, he poses a question: "And admitting that Roman Catholic schools could retain their present rights and privileges, is there implicit in Confederation anything at all that might even remotely affect the existing rights and privileges of Church of England or any other schools?" Interestingly, then, Smallwood deletes this question by pencil. As well, he places the third sentence in brackets and alters "All of these schools, except those noted" to "Nearly all schools." "Nearly" is then replaced by "Practically" (see Appendix II).

This draft typescript memorandum illuminates the position Smallwood (and his colleagues) took at the negotiation table. First, by the time Smallwood made

alterations to the draft memorandum, he had fully grasped that Section 93 provided for the protection of the educational rights of a recognized minority religious group. Second, based on this, he developed a strategy to secure the rights of the Roman Catholic Church as those of a "minority" religious denomination. Third, since there were other denominations equally with stakes in schools, he decided to secure their rights also as minority rights. Consequently, he chose to seek to protect the rights of *all* the denominations that had stakes in schools as *minority* rights within the Section 93 framework (from possible non-denominational forces in education), as evidenced by the deleted question. In this vein, he portrayed "practically all schools" as "separate" schools again in conformity with Section 93 provisions. What is clear from these clues is that Smallwood (and the delegation) decided to pursue the protection of denominational rights within the principles of Section 93. What is also clear is that, for Smallwood at least, his preoccupation with the Roman Catholic Church's position was the fulcrum on which the whole educational issue turned.

In response, Canadian officials reiterated the framework of Section 93. They pointed out that the legislature of each province was given exclusive jurisdiction over education, with reservation on "certain rights and privileges with respect to denominational schools which any class of persons had by law in the province at union."<sup>23</sup> This point obviously could work favourably for Smallwood. Since the "at union" principle protected the existing rights of the minority group, an exception could easily be obtained for Newfoundland to protect more than one minority denomination. He had already stated that there were in Newfoundland more than one minority religious group involved in education, or that all schools in Newfoundland were minority, "separate" schools. The Canadian officials also pointed out that, in case of violations of the reservation, the parliament of Canada could make remedial laws for the due execution of the provisions. Then they moderated their position by stating that schools in Newfoundland would remain entirely under the legislative power and authority of the province if the principles of Section 93 were applied to the terms of union to be negotiated from then on. And they gave assurances that the question of education grants was entirely within the provincial legislative power. Grounds were thus laid for the subsequent discussions.

The negotiation entered a more substantial phase from 18 July, on which day the cabinet decided to pursue a full set of terms of union (Webb 1987, 95). The Canadians drew up a tentative education clause with a literal application of Section 93 provisions. The Newfoundlanders hesitated to accept it. The Canadians hinted that "Section 93 of the BNA Act would perpetuate the present denominational system of education in Newfoundland and prevent the provincial legislature from altering it" if so desired. They also hinted that "the Canadian Government would have no wish to dictate to Newfoundland regarding the situation and it was left for the Newfoundland delegation to make specific proposals."<sup>24</sup> At this time, according to Mackenzie King's memorandum, St. Laurent personally intimated to the dele-

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gation that the education clause was “primarily a matter of concern to Newfoundland rather than Canada,” and that the clause should be drafted by the delegation.<sup>25</sup>

King’s memorandum goes on: “This draft is by Messrs. Bradley and Smallwood in consultation with some and possibly all their colleagues.<sup>26</sup> It is designed: (a) to protect existing denominational rights, and (b) to permit of voluntary amalgamation of denominational schools which is a matter of concern to certain Protestant denominations” (Bridle 1984, 669n). Since the King government found no problems here, it accepted what was thus drawn up. The “Proposed Arrangements” contained the following clause:

19. The Legislature of the Province of Newfoundland will have exclusive authority to make laws in relation to education within the Province, provided that:

The Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational or separate schools which any class of persons has by law in Newfoundland at the date of union, but the [L]egislature may authorize any two or more such classes of persons to amalgamate or unite their schools and to receive, notwithstanding such amalgamation or union, their proportionate share of the public funds of Newfoundland devoted to education (Canada 1948a).

In sending the Proposed Arrangements to the Governor of Newfoundland, Mackenzie King, who was at this time virtually retired, stated in his covering letter that although the proposed arrangements had already reached the “circumstantial limitation” in financial areas, his government would not impose any rigid conditions and would be prepared to give reasonable consideration to suggestions for further modification or addition (*Ibid.*). To ensure Newfoundland’s exclusive jurisdiction over education, St. Laurent, now as Acting Prime Minister, made clear at a press conference that education was to be under the unrestricted control of Newfoundland, that the proposals had been drafted according to what was deemed to be the desire of the people of Newfoundland, and that the Canadian Government had no power to make the exercise of control of education a condition of union. Furthermore, he reaffirmed his government’s readiness to accept any reasonable additional modifications of the proposed arrangements on matters such as education.<sup>27</sup>

When the second delegation — again with Smallwood in it<sup>28</sup> — met in St. John’s on 28 August 1948, it decided to refer the education clause to the Council of Education for examination and comment by denominational Executive Officers. This was an additional effort to satisfy interested denominations. In general, the clause was received approvingly. Only the Executive Officer for the United Church rejected it. Instead, he suggested revising it so as to reinforce the provincial government’s power in education. He would see the first paragraph revised to: “The Legislature of the Province of Newfoundland will have exclusive authority to make laws in relation to education within the Province as if Confederation had not been consummated.”<sup>29</sup> And he suggested deleting the entire second paragraph contain-

ing safeguard provisions. While preserving denominational rights and privileges in education was important, he found it unacceptable that the legislature was "restricted for all time from making any changes in education which may reflect the will of the people."<sup>30</sup> Other Executive Officers, however, agreed to the clause and asked to strengthen the protection of denominations' rights and privileges. Both Roman Catholic and Anglican Executive Officers suggested adding "colleges" as an item for protection.<sup>31</sup> The Roman Catholic Executive Officer made an additional request to guarantee state funds for amalgamated schools. The delegation rejected the United Church Executive Officer's request but accepted all those from other Executive Officers. The text was revised accordingly.

The Items submitted on 13 October 1948 by the Newfoundland delegation to the second round of negotiation included this:

#### XXIV. Education

Clause 19 of the proposed arrangements should be redrafted to read as follows:

"19. The Legislature of the Province of Newfoundland will have exclusive authority to make laws in relation to education within the Province provided that:

The Legislature will not have any authority to make laws prejudicially affecting any right or privilege with respect to denominational or separate schools *and colleges* which any class of persons has by law in Newfoundland at the date of union, but the Legislature may authorize any two or more such classes of persons to amalgamate or unite their schools and *for and in respect of schools so amalgamated or united* to receive, notwithstanding such amalgamation or union, their proper share of the public funds of Newfoundland devoted to education."<sup>32</sup> [emphasis added]

The second round of negotiation was simple and efficient as far as the education clause was concerned. Although the Canadians made preliminary attempts on 10 October 1948 to further enhance Newfoundland's control of education, such attempts did not result in any changes to the revised text. At the agenda-setting meeting of 13 October, the Canadians reaffirmed their position that education was a provincial matter and stated that "the Dominion government would probably have no objection to Newfoundland's proposals in this matter."<sup>33</sup> Item XXIV was therefore not referred to a subcommittee for further negotiation. In the process of finalizing the agreed set of terms of union, Clause 19 underwent technical rearrangements to become Term 17. It was through these rearrangements that the word "separate" was dropped — not because it was inappropriate but because it was taken to be redundant with "denominational."

Overall, therefore, Smallwood and the Ottawa delegation appear to have attained what they had pursued without much difficulty. Denominations' rights and privileges in schools were guaranteed. Their entitlement to state funds was also secured. Finally, they were allowed to amalgamate their schools if they desired. With these three provisions in the Terms of Union, Smallwood in particular now had reason to say that, as far as education was concerned, all parties with interests

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in schools — especially the Roman Catholic Church — would not be affected by confederation.

But there is one significant point to bear in mind. The education clause in Terms of Union was drafted by Smallwood and agreed to by the Canadians in line with two principles embodied in Section 93 provisions. These principles were that education was a provincial matter, and that the provincial authority should not override the rights of Her Majesty's subjects belonging to religious minorities to have (or not to have) their schools separately from mainstream schools. Term 17 reinforced the first principle by removing federal power to bring in remedial legislation and protected several denominations' rights and privileges as the rights and privileges of *minority subjects* to have (or not to have) their own separate schools. This is to say that the provincial government in Newfoundland was given more power than its counterparts in other Canadian provinces in making decisions on education, and that the "recognized denominations" in Newfoundland were given rights and privileges which were similar to, and no greater than, those of their counterparts. (One significant difference might be the provision for their entitlement to a non-discriminatory allocation of state education funds.) Thus viewed, Smallwood (and his colleagues in the delegations) did not in fact enable denominations to control the entire school system. Neither did he secure the Roman Catholic Church's, or its clergy's, exceptional rights and privileges in schools. Neither the Church nor its clergy were included among the protected minority subjects.

The Canadian negotiators made some of these points clear. At a press conference on 6 November 1947, St. Laurent implied that Clause 19 of the Proposed Arrangements was based on Section 93 principles. When asked whether there was a legal basis for Newfoundland's separate schools, he replied that "there was no federal legislation for this purpose but that the BNA Act contained provisions for such schools" (Bridle 1984, 720). Further clarifications were made when the Canadian government sought parliamentary approval of the Terms of Union in February 1949. St. Laurent, now Prime Minister, admitted Term 17's "substantial departures" from Section 93 provisions. He stressed, however, that such departures did not mean "an amendment to or a derogation from" those provisions as far as Canada was concerned (Canada 1949, 287). Suggesting that Term 17 was a flexible application of those provisions to Newfoundland, he went on to explain why such departures were necessary. He observed, first, that the Section 93 provision for federal remedial legislation had been proven to be "highly controversial," particularly in newly created provinces. Second, since in his understanding Newfoundland's legislature already had a "full and exclusive control" of education, it was reasonable to permit it to continue to have the control (*Ibid.*). For these reasons, he stated, his government asked the Newfoundland delegation to decide what it wanted to guarantee in the education clause to the satisfaction of its people (*Ibid.*, 364).

St. Laurent also addressed the "safeguards" provisions. The provincial legislature, he stated, "must not make any laws that would prejudice what is described in the terms of union as the rights of *the denominations which comprise the people of Newfoundland*" (*Ibid.*, 288). He thus implied that the phrase "classes of persons" meant "denominations" as elements of the people of Newfoundland, not as church hierarchy or bodies of denominations. He also stated that the protection of denominational or separate schools' rights and privileges was aimed simply to ensure that the provincial legislature "would not have jurisdiction to do things that would impinge upon the rights of *minorities*" (*Ibid.*, 364; emphasis added). In this sense, he concluded, Term 17 was "a modification of the guarantees of minority rights set out in the original British North America Act" (*Ibid.*, 366).

The subsequent debate in the House of Commons also addressed such questions as whether Term 17 would not result in the perpetuation of the status quo in education and whether the provincial government possessed the power to develop its own secular or non-denominational schools. St. Laurent's position was clear again on these points. He said, "There is a right in the legislature to set up other schools than those which exist at the present, but it is provided that if they do set up other schools they must not discriminate against the denominational schools in the districts" (*Ibid.*, 365). He also stated that the legislature possessed the power to change the educational system of the province provided that it did not violate protected denominational rights (*Ibid.*).

This last point was not crystal-clear, though, in terms of how the provincial government would change the system without violating the protected rights. It was fine in St. Laurent's view for the provincial legislature to alter the existing system of education by developing new non-denominational or secular public schools. But any alteration of the system would inevitably affect denominational schools. Suppose, for instance, the provincial government decided to allocate public education funds to denominational schools by a scale of a dollar for each enrolled student and spend the remainder for establishing and operating its own non-denominational or secular schools. Since no denominational school was discriminated against, one may not say Term 17 was here violated (Kim 1992). Consequently, however, all of them would be financially choked unless they found their own sources of money. Most of them might thus be forced to close. In such a case, the educational rights and privileges of the recognized denominations would become practically meaningless although they were not "prejudicially affected." Would upholding such rights and privileges not mean a restriction on the provincial legislature's right to "other" schools?

Thomas J. Bentley, a CCF member from Saskatchewan, quickly grasped this point. If Term 17 protects denominations' rights and privileges in schools, he observed, the existing arrangement of schools cannot be changed by any future legislation unless the denominations agreed. "That being so," he argued, "Canada is being a party to an agreement which might become abhorrent to some future

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legislative body of that province," which will have practically no control over education, no powers to lay down and enforce a curriculum for schools, to carry out such things as compulsory education unless requested by the privileged denominations (Canada 1949, 424-5). The new Prime Minister did not support this view yet he did not elaborate any further. He just said, "The only thing to which we are becoming a party is the writing into the constitution of a guarantee that the rights of denominational schools not to be discriminated against will be preserved" (*Ibid.*, 426). Bentley did not pursue the matter any further. But he seems to have been persuaded by St. Laurent, for when voting was called on Bill 11 he cast an "aye" vote.

Meanwhile, the record of the National Convention's debate on Clause 19 of the Proposed Arrangements shows Smallwood's somewhat different perspective. This perspective is obvious in the steps he took to explain the provisions of the education clause. He first referred to Mackenzie King's covering letter stating that Canada would not set down any rigid conditions on matters of primarily provincial concern, and would give reasonable consideration to Newfoundland's suggestions for additional changes to the clause (Harrington and Hiller 1990, 1806). He said, "The Prime Minister has made it quite clear that if Newfoundland wishes to change that clause, if this Convention desired to ask the Government of Canada if they would change it in some way, they are open to receive the request. If far more responsible people than this Convention wish to take up the matter, the way is open" (*Ibid.*, 1807). Emphasizing the room for Newfoundland's additional input, he proceeded to summarize Clause 19 provisions. He stated that only the legislature of Newfoundland could pass any laws concerning education, and that Ottawa would not intervene in this matter under any circumstances. Then he brought up the issue of protecting denominational rights in schools. He pointed out that the legislature was forbidden to "pass any law which would affect the rights of the different denominations to have their own schools." Since no law could be made to affect such rights, he paraphrased, the denominational schools could go on to exist "as long as time lasts." He added that in case any two denominations or more wished to amalgamate their schools with other schools, their rights were also protected in this regard as well. Finally, he concluded by saying that the decision to preserve or alter denominational schools was "left entirely to the people and the legislature of Newfoundland, and no one else [could] interfere in it" (*Ibid.*, 1806).

What is apparent in these steps is that his primary concern with respect to Clause 19 was the preservation of Newfoundland's exclusive jurisdiction on education. He regarded the provisions for protecting denominational rights as provisions for preserving Newfoundland's interests. Thus the focus of his interpretation was that Ottawa would not intervene in the system of education in which Newfoundlanders had interests. Although changes to the system were to be effected by the voluntary decision of the denominations concerned, he saw no difference between clergyman and layman, between denomination as a body and denomina-

tion as a group of individuals, and between denominations and Newfoundlanders. In his view, denominations or “classes of persons” were “the people” of Newfoundland, which in turn was synonymous with “the legislature” of Newfoundland. From this view, he confidently assured his colleagues that Ottawa was “open to make it [the education clause] even more binding than it is for the purpose of guaranteeing and protecting the rights of the various classes of persons in Newfoundland” (*Ibid.*). And he warned, should Section 93 be applied directly to Newfoundland, there would be the danger that “all Protestant schools, whether they liked it or not, might be forced to unite” against the will of Newfoundlanders (*Ibid.*, 1811).

It may not be necessary to point out that Smallwood’s confusion of denominations with “the people” and “the legislature” of Newfoundland was absurd from the point of view of education. The problems of the denominational system came from the fact that public schools were controlled by denominations — that is, private organizations normally bearing no public responsibility for their operation — rather than by the people or by the legislature. At the debate, as well as at the negotiation table, however, Smallwood was not dealing with these problems. Nor was he concerned with possible future problems of public education. For this reason, what the future legislature could do to solve possible problems of the solely denominational system of public education was entirely out of his consideration. Throughout the debate, he never mentioned what St. Laurent would say before his own legislators, that the provincial legislature was not prevented from altering the school system. And those members who joined the debate did not go beyond the issues Smallwood brought up. Their primary concern, too, was whether the federal government would indeed not intervene in education, which was, as they heard, a provincial matter. None of them asked whether the principles of Section 93 had anything to do with Clause 19.

Their primary concern—and their silence on this important point—may explain the reasons why the conventional interpretation has been circulated widely up until this day. It is clearly the politics of confederation that has sustained it, and perhaps still sustains it, in Newfoundland. Has the time not yet arrived to look beyond?

## Appendix I: Contradictions between Section 93 and Term 17

Kim (1992, 31-2) identifies in Newfoundland’s education laws the following points of view by which the lawmakers have interpreted Term 17:

1. The rights and privileges protected by Term 17 are the rights and privileges of religious denominations (e.g., Department of Education Act 17, 18).
2. Since all the schools and colleges that existed at union were either denominational or inter-denominational, the denominations that had stakes at that time in those schools and colleges are *de facto* all of the educational authorities.



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3. All provincial funds for public education are to be distributed among them on a non-discriminatory basis (Department of Education Act 17 [3]).

The Schools Act actually underpins these points of view by endorsing the recognized denominations' control of public education and by allowing them to appoint Denominational Education Councils, which in turn hand-pick at least a third—and practically all—of the members of all school boards in the province. Public education in the legal provisions is thus placed under the oligarchy of the recognized denominations although “the Legislature has the authority to make laws in relation to education.”

Meanwhile, Section 93, which Term 17 replaces in and for Newfoundland, contains somewhat different provisions, of which two are important. First, it provides for provincial jurisdiction in education on condition that the provincial authority does not violate the educational rights existent at union of “Her Majesty’s Roman Catholic subjects” in a region where “Her Majesty’s Protestant subjects” are the majority, and vice versa. Second, in order to safeguard their rights, it empowers the federal parliament to make remedial legislation in case the provincial authority violated them. Central to the first provision — which is in effect the key point of the Section — is the right of Her Majesty’s certain subjects to set up their own schools separately from mainstream schools.

One point to note in comparison with the conventional interpretation of Term 17 is who those subjects are whose rights the constitution protects. “Subjects” are undoubtedly individuals. Yet they are also addressed as “class of persons,” a phrase which clearly refers to denomination. Can denomination as a class of persons mean denomination as a body or its leadership? Or does it stand simply for a group of individuals belonging to a denomination? The text of Section 93 does not appear to uphold the first view. Evidence for this is seen in the Section 93-based school laws of Alberta, Saskatchewan, Ontario and Quebec. Those laws commonly allow local residents belonging to the recognized denomination to *elect* a separate (or “dissentient”) school board and set up and operate schools on their own initiative and responsibility in case their number justifies it. Neither of them recognizes the church’s — or the clergy’s — rights and privileges in education. This is one divergence from the conventional interpretation of Term 17.

There are other divergences as well. Notably, Section 93 embodies the principle of the 1867 confederation on which Her Majesty’s Roman Catholic subjects united with Her Majesty’s Protestant subjects to form a new nation, that is, the principle of mutual respect for distinct ways of life.<sup>34</sup> Within this principle, Section 93 stipulates that, of the two founding groups, the *majority*-elected legislature of the region should not infringe upon the *minority* group’s educational rights. It does not provide for protecting the educational rights of minority denominations as such, or for automatically organizing schools along denominational lines, or for permitting a few large religious denominations’ exclusive control of public education. On the contrary, the provision for separate schools presupposes that the majority have a mainstream school system that threatens minority schools.

Given that a government has to operate within the principles of its own constitution, it is improbable that the Canadian government chose to abandon those constitutional principles in admitting Newfoundland into the confederation. If that government operated within those

principles, the education clause it could offer to Newfoundland must be, at best, a modified version of Section 93. If one agrees, for this reason, that Term 17 is a modified version of Section 93 rather than the latter's replacement, one may say that the Term retains the basic principles of the Section, or at least that the Term does not contravene its basic principles. In this light, Kim (*Ibid.*) concludes, (i) that denominational churches or their leadership may not have rights to denominational schools, (ii) that the protected denominational schools may be *minority* schools which are not to be discriminated against in favour of certain non-denominational or secular *majority* schools, and (iii) that the provincial legislature may establish such non-denominational or secular schools out of the public coffer regardless of the existence of denominational schools.

## Appendix II Smallwood's hand corrections

*Particulars*  
 P.4, sec.9. "The provincial legislatures have exclusive authority with regard to education, subject to certain safeguards for the rights of religious minorities."

Could we have a comprehensive statement of the Province's exclusive jurisdiction over education? The position in Newfoundland is that with extremely few exceptions all schools are owned and operated by the principal religious denominations - Church of England, Roman Catholic, United Church, Salvation Army. (There are two or three schools operated between them by the Seventh Day Adventist and other small denominations.) ~~Protestant, Methodist, Baptist, and other denominations~~ are financed exclusively, or for the most part, by grants from the Public Exchequer of the Newfoundland Government. The education grant is divided amongst the denominations on a school-attendance basis, and is managed by superintendents nominated by the denominations concerned, under the general supervision of the Department of Education. In short, Newfoundland's schools, with insignificant exceptions, are all "separate" schools financed almost exclusively by the Government of Newfoundland. Would Confederation affect this position in any manner or degree? Would any change whatever be necessitated by our becoming a Province? ~~and wondering that Roman Catholic schools could retain their present rights and privileges, is there implicit in Confederation anything at all that might even remotely affect the existing rights and privileges of Church of England or any other schools?~~

"Memorandum by Newfoundland Delegation on 'Some Notes'" (part), CNS Archive Box 4.01 004.

## Notes

<sup>1</sup>I use "the denominational system of public education" or "the denominational arrangement" or "the denominational system" to refer to the system of public education which is based on denominational schools. In Newfoundland, various denominations have denominational or inter-denominational "systems of school."

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<sup>2</sup>The main target of the first royal commission was denominational intervention in the Department of Education (Newfoundland 1967, 54-7) although it also addressed the redundancy of educational services due to denominational duplication (for instance, *Ibid.*, 76-9 and 102). The second royal commission put the denominational system under its principal focus (Newfoundland 1992).

<sup>3</sup>"Colleges" here means secondary schools.

<sup>4</sup>McCann (1990b, 72) notes that on the eve of the 1949 Confederation there were 15 amalgamated, 13 common and 5 land settlement schools in operation, accommodating 6.3 percent of the pupils attending schools. According to him, the "land settlement" schools were secular (*Ibid.*) while the inter-denominational "common" and "amalgamated" schools were practically outside the control of denominations (*Ibid.* and McCann 1994, 197).

<sup>5</sup>Actually, Smallwood talked about Clause 19 of the Proposed Arrangements (Canada 1948a), the previous version of Term 17. The latter was not debated by the National Convention.

<sup>6</sup>The cable messages exchanged between the delegation and the National Convention reveal the importance of this issue. The majority of the members remaining in St. John's denounced the delegation for "openly negotiating with Canadian government" which, in their view, was "wholly unauthorized and beyond terms of reference" (Jackman, Fudge, et al. to Bradley, 8 September 1947, CNS Bradley Papers). In response, Bradley, the Chair of the National Convention who led the delegation, repeatedly insisted that his delegation was trying "to ascertain from Government of Canada what fair and equitable basis exists for federal union" of the two countries in compliance with their terms of reference and "no more no less" (Bradley to Capt. W.G. Warren, 18 July 1947, CNS Bradley Papers). When *Daily News* correspondent Gerald Waring's report on the "slow tempo of the talks" began to influence the public opinion negatively, Smallwood cabled the *Evening Telegram* to make the same claim (Smallwood to *Evening Telegram*, undated cable text, CNS Bradley Papers, Typescript). The Canadians also avoided the word "negotiate." The first time they officially used it was on 30 July 1948 (Bridle 1984, 1101).

<sup>7</sup>The working group of bureaucrats included R.A. Mackay (chair), J.R. Baldwin (from Privy Council), Paul Bridle (from External Affairs), Mitchell Sharp, A.B. Hockin (both from Finance), James Coyne, C.S. Watts (both from the Bank of Canada), and Stewart Bates (from Reconstruction and Supply). The members of the cabinet committee were Louis St. Laurent (chair; External), Brooke Claxton (acting chair in St. Laurent's absence; Health), J.L. Ilsley (Finance), Frank Bridges (Fisheries), C.D. Howe (Reconstruction and Supply), J.J. McCann (Revenue), Douglas Abbott (Defence) and Senator W.M. Robertson (see Pickersgill 1970, Vol. 3, 407-8). Baldwin was its secretary.

<sup>8</sup>Lord Sempil observed that Newfoundland had become financially self-supporting by as early as 1941 (Great Britain 1949, 628).

<sup>9</sup>This concern was well expressed in 1946 by Archbishop Roche when he said there was "reason to fear that what happened during the war may happen again, and that Newfoundland's future is likely to be determined, unless we are on our guard, by power politics from without rather than by the wishes of the people within" (FitzGerald 1992, 46).

<sup>10</sup>See "The Story of Confederation" (Smallwood 1967, 21-2).

<sup>11</sup>Jamieson (1989, 71) puts the consensus this way: "Newfoundland's system of denominational education . . . was repugnant to many Canadians. Yet, this system would

have to be entrenched in the proposed terms of agreement before the Newfoundland public would even begin to take Confederation seriously.”

<sup>12</sup>“Let Us Draw Close to Canada” (Smallwood 1967, 37).

<sup>13</sup>Bradley’s reluctance in joining the confederation drive is apparent in his early 1946 letters to Smallwood. After pointing out that Smallwood was “a startling individual” who sometimes “moved a bit too fast,” Bradley writes to him, “Your changed attitude towards confederation is not surprising. I have always felt that it was inevitable in the long run, but whether the unanimity that you suggest really exists throughout the country is doubtful. It starts with a strong prejudice against it, and prejudices die hard. . . . If your party is confederate, it is probable that your opponents will be anti-confederate” (Bradley to Smallwood, 28 Feb. 1946, CNS Bradley Papers). A month later, his position is still like this: “The more I think of the political situation and the various kinds of monkey wrenches which may be thrown in the gear box of democracy by sectional interests, prejudges, shibboleths, myths and loyalties, the more gloomy the prospect grows.” And he advises Smallwood not to “be in a hurry to commit yourself to anyone or anything” (Bradley to Smallwood, 29 March 1949, CNS Bradley Papers). This position is also noted in Hiller (1988, 170-1).

<sup>14</sup>According to Smallwood (1973, 309-10), Bradley, who had been the Grand Master of the Orange Order, was reluctant to offer constitutional warrant for the privileges of the Roman Catholic Church. Smallwood recalls that he persuaded Bradley to do so and even that he pulled him to the papal embassy in Ottawa to take heed of the concerns of that church regarding their schools in Newfoundland.

<sup>15</sup>I could not find any trace of such negative views in the referendum speech notes stored in CNS Archive’s Smallwood and Bradley Papers. Nor could I do so in the propaganda materials of the confederates under the custody of CNS.

<sup>16</sup>The two members were M. McDonald from Grand Falls and C.L. Bailey from Trinity South. The latter was an anti-confederate, interestingly.

<sup>17</sup>McCann (1990a, 58) notes that since 1887 there had been a tendency among politicians of holding the denominational principle of school arrangement to be sacrosanct instead of risking troubles by seeking to find and fix problems arising from that principle.

<sup>18</sup>Archbishop Roche said in 1946: “If ... the people of this country should decide to become a province of Canada — I hope that contingency will never arise, because it would become an ill-advised and unfortunate decision — immediately the education issue would become a live issue. It is true that in theory in Canada each Province decides its own educational policy, but it had to provide the funds. Newfoundland’s economy being what it is, we could never from direct taxation provide the necessary grants, and education would at once become a Federal question with results and consequences that anyone would foresee” (FitzGerald 1992, 49).

<sup>19</sup>The confederates were Smallwood, Bradley, Rev. Lester Burry, C.H. Ballam and T.G.W. Ashbourne. W. Crummey and G. Higgins were included as anti-confederate watchdogs. Interestingly, however, these anti-confederates became gradually influenced by their rivals.

<sup>20</sup>“Summary of Proceedings: Meetings between Delegates from the National Convention of Newfoundland and Representatives of the Government of Canada,” 25 June-29 September 1947, Ottawa, Part I, 78. CNS.

<sup>21</sup>*Ibid.*, Part II, 10.

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<sup>22</sup>“Memorandum by Newfoundland Delegation on ‘Some Notes’.” Typescript. Smallwood Papers. CNS Archive Box 4.01 004.

<sup>23</sup>“Questions Asked by the Newfoundland Delegation and Answered by the Department of Justice.” Undated. Smallwood Papers. CNS Archive Box 4.01 004.

<sup>24</sup>“Meeting of Sub-Committee on Arrangements for Union of Newfoundland and Canada,” 11 August 1947 (Bridle 1984, 618).

<sup>25</sup>“Memorandum from Assistant-Secretary to the Cabinet to Secretary of State for External Affairs,” 10 Oct. 1947 (*Ibid.*, 669n).

<sup>26</sup>In fact, it appears that Smallwood drafted the clause in consultation with Bradley and other members of the delegation.

<sup>27</sup>“Extracts from Minutes of a Press Conference Held by Acting Prime Minister,” Ottawa, 6 Nov. 1947 (Bridle 1984, 720).

<sup>28</sup>Other members were A.J. Walsh (leader, Commissioner of Government), Bradley, C. Crosby, P. Gruchy, J.B. McEvoy and G.A. Winter.

<sup>29</sup>“Executive Officer (United Church) to Secretary for Education,” 20 Sept. 1948 (Bridle 1984, 1083).

<sup>30</sup>*Ibid.*

<sup>31</sup>Executive Officer (Roman Catholic) to Secretary for Education, 22 Sept. 1948 (*Ibid.*, 1082; and Executive Officer (Anglican) to Secretary for Education, 16 Sept. 1948 (*Ibid.*, 1084).

<sup>32</sup>“Minutes of a Meeting of the Cabinet Committee and the Newfoundland Delegation,” Ottawa, 13 Oct. 1948 (*Ibid.*, 1134).

<sup>33</sup>*Ibid.*, 1122-3; 1126; 1134. Jamieson (1989, 136) observes that “Newfoundland’s right to denominational schools was enshrined in the Act of Union” as a result of religious leaders’ insistence on “iron-clad” protection during the referendum campaigns. This observation is misleading because the post-referendum revision of Clause 19 does not significantly deviate from the original text.

<sup>34</sup>Louis St. Laurent said, “Canada is a country with distinctive character and distinctive qualities. Our nation in its origin was a nation of two great races that have joined their talents without merging their identities” (CBC 1949, 12).

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