

## **Archbishop E.P. Roche, J.R. Smallwood, and Denominational Rights in in Newfoundland Education, 1948**

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The eleventh of December 1998 was the fiftieth anniversary of the signing of Newfoundland's Terms of Union with Canada by representatives of the governments of Canada and Newfoundland. The terms brought Newfoundland into confederation, and came into force "just before the expiration of 31 March 1949." A constitutional document, they established a legal, political, and social relationship between what had hitherto been two countries, and expressed the kind of society and state Newfoundlanders desired for themselves. In the late 1940s, a good deal of political significance was attached in public debate by the leading advocate of confederation, Joseph R. Smallwood, to the views of the hierarchy of the Roman Catholic Church on the issues of confederation and education. The archbishop, Edward P. Roche, was a known anti-confederate, and he held fast to the importance of denominational education. In the late twentieth century, the most contentious term has been Term 17, the education clause, which guaranteed religious denominations the right to state funding for their schools, and rights to control school administration, the religious studies curriculum, and the hiring and firing of teachers. In September 1998, the Newfoundland government implemented a replacement to the denominational system of education. Roman Catholic parents and bishops opposed this move in the courts, claiming that it violated their guaranteed educational and minority rights. It is therefore timely to examine how the issue of denominational education was a factor in the confederation debates of the late 1940s, why constitutional guarantees were given to the Newfoundland religious denominations, and to examine the extent of Archbishop Roche's involvement in the confederation and education questions.



Edward Patrick Roche (1874-1950, Second Archbishop of St. John's (1915-50)  
Source: Archives of the Roman Catholic Archdiocese of St. John's

In 1836, the education act passed by the Newfoundland legislature established a school board for each of the nine electoral districts of Newfoundland. It allocated a grant for education, earmarking £300 for

Church of England schools and £300 for Roman Catholic schools.<sup>1</sup> This act established several important precedents for Newfoundland. It established a formally non-denominational education system, patterned after the formally non-denominational but informally Protestant Irish national system instituted in Ireland in 1831.<sup>2</sup> More importantly, the legitimacy of denominational schools was recognized by providing partial but regular subventions towards their operations, where funding had been hitherto provided by the denominations and by occasional government grants.<sup>3</sup> Denominations were thus assisted in creating a cradle-to-grave social environment in which to preserve their cultures and beliefs. For Irish-Newfoundland Roman Catholics between 1836 and 1949, this meant baptism in the Church, education in a Catholic school system and possibly in a Catholic college or a Catholic teacher training program, and by the mid-1920s, with the approval of Archbishop Roche, Catholic college affiliation with inter-denominational Memorial University College. The system was seen by the Irish as facilitating equal Irish participation in the political life of the Newfoundland state. In 1855, Britain granted Newfoundland responsible government with a parliament. P.F. Little, a Catholic lawyer, became the first Premier. In the election of 1869, Newfoundlanders rejected confederation with Canada. Irish Catholics spearheaded the anti-confederate movement, and equated union with the British North American provinces to the west with the Act of Union and a loss of sovereignty.

Only in the early twentieth century, when it looked as if confederation with Canada might at last take place, did Roman Catholic leaders begin to fear that confederation might challenge the “denominational principle” of education, specifically, the Church’s customary legal right to state funding for its schools. Edward Patrick Roche was the second archbishop of Newfoundland and the youngest Roman Catholic archbishop in the British Empire when he took possession of the See of St. John’s in 1914. In 1905, as parish priest at Powerscourt, Manuels, Conception Bay, Roche had been appointed secretary of the Archdiocesan

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<sup>1</sup> 6 William IV, c. 13, An Act for the Encouragement of Education in this Colony. The remainder of the grant was subdivided between the nine boards.

<sup>2</sup> McCann, “Introduction” to an issue on Education and Society, *Newfoundland Studies*, Vol. 11, No.2 (Fall 1995): 171-7. On the Irish system, see Donald H. Akenson, *The Irish Education Experiment: the National System of Education in the Nineteenth Century* (London, 1970), 107-22. Roman Catholic schools in Newfoundland subsequently took little pattern from the Irish National System or its Protestant ideological underpinnings.

<sup>3</sup> F.W. Rowe, *The Development of Education in Newfoundland* (Toronto, 1964), 63-4.

Education Committee, and directed by Archbishop Howley to gather information on Catholic education with which to answer challenges to the “denomination principle” which might be placed before the government.<sup>4</sup> In October 1915, as archbishop, Roche founded a new Catholic Education Council to defend denominational education. And in 1916, in his first address to the priests of his diocese, Roche equated the possibility of confederation with a threat to denominational education, and stated his perception of the Church’s and his responsibility to protect it:

The preservation of our denominational system of education rests entirely with ourselves.

Of recent years there have been rumours, persistent rumours ... of Confederation with Canada. Of the truth or otherwise of these rumours I know no more than the man in the street ... I have no doubt, however, that if ever such a question should arise the people will get an opportunity of passing upon it. It will then be our duty as citizens, as Newfoundlanders, as lovers of our country, to examine every phase of the question minutely ... it is not beyond the bounds of possibility that it may be incumbent upon us to tender our advice to the Catholic people ... should the issue ever become a real and vital one unless our educational terms are acceded to, no matter how attractive the other aspects of the question may be, we will be forced to give it our most pronounced and uncompromising opposition.<sup>5</sup>

Confederation, therefore, would be acceptable to Catholics only if Catholic educational terms were accepted and Catholic schools were funded by the state. Throughout his episcopacy Roche consistently opposed confederation on these grounds. It was a position from which he never retreated, and on which he was rarely challenged.

Along with the rest of the countries of the western world in the 1930s, Newfoundland faced the onslaught of the Depression. By early 1932, the costs of building a trans-insular railway in the 1880s and 90s, and the costs of participating in World War I imperilled the country’s ability to meet the interest payments on its \$100 million debt. Bankruptcy threatened, political corruption flourished and welfare rolls swelled. After a riot at the legislature and the election of a new government, a royal commission of inquiry recommended that Newfoundland voluntarily suspend self-government until the country was self-supporting again, when self-government would be restored at the request of the

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<sup>4</sup> Archives of the Roman Catholic Archdiocese of St. John’s, Archbishop Roche Papers (hereafter AASJ, Roche Papers), Box 18, file: “1916-1930-Denominational Schools,” Roche to priests of the Archdiocese, 5 September 1905.

<sup>5</sup> Edward Patrick Roche, “Address to the Clergy of the Province given to the annual priests’ retreat in 1916,” (St. John’s, 1916), 4, 5, 9-10.

people. Britain would assume the government of the island with an appointed Commission of Government composed of a British governor, three British commissioners, and three Newfoundland commissioners. The legislature approved these recommendations, and for reasons not unlike those which motivated Irish parliamentarians in 1800, it voted itself out of existence in late 1933. The Commission of Government took over on 16 February 1934. One of its first policy manouevres was an attempt to dismantle denominational education, but the plan ran headlong into Roman Catholic and Anglican opposition, particularly from Roche, and it quickly died.<sup>6</sup>

The outbreak of war in 1939 changed the world forever, and changed Newfoundland into an armed American and Canadian camp. The island's economy began to boom, fulfilling the first condition for the return of self-government. By 1943, the British Secretary of State Clement Attlee was determined that Newfoundland's constitutional status should be reviewed. He visited St. John's and called on Roche, who informed him of his views on the need to preserve Catholic education. As the 1940s wore on, there were growing demands made by Newfoundland unions, businessmen, and political groups for Britain to return self-government. In July 1945, Attlee formed a Labour government. In December of that year he surprised many Newfoundlanders when, instead of announcing the end of Commission of Government and the immediate return of responsible government, he announced that a Newfoundland National Convention would be elected with a mandate to recommend options to the British government to be placed before the Newfoundland people on a ballot in a constitutional referendum. The Convention was elected in June 1946.

In the summer of 1946, Roche made a statement on confederation and education to the priests of the archdiocese, gathered in their annual retreat. He observed that while the Commission of Government at present exhibited an "intelligent appreciation of the Education situation in Newfoundland," that

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

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<sup>6</sup> J.E. FitzGerald, "The Confederation of Newfoundland with Canada, 1946-1949," unpublished MA thesis, Memorial University of Newfoundland, 1992, 44-5; Peter Neary, Ed., *White Tie and Decorations: Sir John and Lady Hope Simpson in Newfoundland, 1934-1936* (Toronto, 1996), 33.

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.<sup>7</sup>

Dependence on Ottawa for transfer payments to fund education was unacceptable, for it could impinge on the Church's ability to control education. "Informed public opinion among our Catholic people" was needed, so the attentions of the diocesan Catholic newspaper, *The Monitor* (whose editorial content was vetted by Roche's solicitor, R.S. Furlong) were pledged to this mission.<sup>8</sup>

As prominent as Roche was in St. John's, he did not directly represent the views of the whole Church in Newfoundland. The Catholic clergy throughout the island were divided over confederation, as were their congregations. In the predominantly rural Diocese of St. George's, stretching along the west coast of the island, people of Acadian, Scots, Irish, English and Mi'kmaq heritage favoured confederation, as did their bishop, Michael O'Reilly.<sup>9</sup> On the east coast, the people of the Diocese of Harbour Grace were predominantly Irish Catholics who strongly opposed confederation, as did their bishop, John O'Neill.<sup>10</sup> As suffragan bishops, O'Reilly and O'Neill deferred to Roche in matters of faith and morals, and tried to present a unified appearance. By the mid-1940s, Archbishop Roche had become infirm, so in the spring of 1945 the priest Thomas Flynn, the pastor of St. Patrick's parish in St. John's and founder of *The Monitor*, was appointed co-adjutor archbishop. The Canadian High Commission in St. John's, J. Scott Macdonald, reported to Ottawa that Flynn also favoured confederation.<sup>11</sup> But Flynn did not represent Roche's views or those of the vast majority of St. John's Roman Catholics.

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<sup>7</sup> Presentation Convent Archives, St. John's, "Address of His Grace the Archbishop, given at the close of the priests' retreat, 1936," 3.

<sup>8</sup> *The Monitor* began in 1934 as the newsletter of St. Patrick's parish, St. John's, but grew to become the archdiocesan newspaper.

<sup>9</sup> Archives of the Diocese of St. George's, Corner Brook, Newfoundland, Bishop O'Reilly Papers, Coadjutor Archbishop Thomas J. Flynn of St. John's to Bishop M. O'Reilly, 11 October 1947.

<sup>10</sup> J.R. Smallwood, "The Story of Confederation," in J.R. Smallwood, Ed., *Book of Newfoundland, Vol. 3* (hereafter *BNF*) (St. John's, 1967), 8.

<sup>11</sup> Paul Bridle, Ed., *Documents on Relations Between Canada and Newfoundland, Vol. 2, Part I* (Ottawa, 1984) (hereafter Bridle, *Documents*), 243, J.S. Macdonald to Secretary of State for External Affairs, 8 May 1946.

When the National Convention met in September 1946, its proceedings were broadcast on radio across Newfoundland. Debate was dominated by Joseph R. Smallwood, a former socialist, communist, union organizer, broadcaster, and pig-farmer, and the only Convention member elected on a platform of seeking confederation with Canada. One of the microphones used to broadcast the proceedings was placed in the chamber before him, and he fully exploited this opportunity to spread “the Gospel of Confederation.” In May 1947 in the Convention, Gordon Higgins read from an address delivered by Archbishop Roche recommending the expansion of Memorial University College into a fully-fledged Newfoundland university, in order that a native educational institution might “embrace within its scope and ambit those institutions in our midst which have their roots deep in the soil and the traditions of the country.”<sup>12</sup> On other occasions, members spoke about making adjustments to the Newfoundland school curriculum, but not to the denominational system of education.<sup>13</sup>

As the deliberations of the Convention proceeded through late 1946 and into 1947, the opinions of the members gradually polarized for and against confederation. Debate was often acrimonious. Outside the Convention, a Responsible Government League (RGL) was formed to lobby for the return of self-government. On 26 February 1947 the Convention proposed to send a delegation to London, to determine the extent of future financial assistance Britain was prepared to give Newfoundland, and one to Ottawa, to seek Canadian terms of union. The London delegation was received coolly and it secured no British commitment of future financial aid if the Convention failed to recommend the inclusion of Commission of Government on the referendum ballot.<sup>14</sup> The Ottawa delegation, consisting of Smallwood, Gordon Higgins, F. Gordon Bradley, and others, was warmly received. Smallwood wrote Canadian Secretary of State for External Affairs Louis St. Laurent, pressing him to offer generous terms,<sup>15</sup> and Canadian civil servants were prepared for the Newfoundlanders’ arrival.

Little had been said in the Convention about denominational education, but Ottawa mandarins had already struggled with the political

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<sup>12</sup> J.K. Hiller and M.F. Harrington, *The Newfoundland National Convention 1946-1948, Vol. 1* (hereafter Hiller and Harrington, *National Convention*) (Montreal and Kingston, 1995), 577, 22 May 1947.

<sup>13</sup> For example see Hiller and Harrington, *National Convention*, 678, speech of Mr. Reddy, 7 November 1947.

<sup>14</sup> FitzGerald, “Confederation,” 75.

<sup>15</sup> Bridle, *Documents*, 414, Smallwood to St. Laurent, 21 March 1947.

imperative that a successful confederation campaign in Newfoundland would require that the churches, particularly the Roman Catholic Church, be guaranteed that their educational rights would be protected under confederation. In early May 1947, R.A. MacKay wrote his colleague Paul Bridle of the Department of External Affairs that it was his “offhand opinion” that “since the Newfoundland system of multi-denominationalism rests largely on law rather than custom, Sec. 93 would rivet the system indefinitely on Newfoundland in the event of union, unless precautions were taken in the act of union to avoid this.”<sup>16</sup> MacKay, the principal advisor in External Affairs on the Newfoundland question, was uncomfortable with the Newfoundland denominational education system and feared that any guarantees given on education in section 93 of the British North America Act, or its possible successor, the Newfoundland-Canada terms of union, would be permanent.

But this was precisely what Smallwood wanted. His difficulty was that no member of the Ottawa delegation had consulted Roche for his views on education before going to Ottawa. Smallwood later wrote that Roche “was implacably determined to see that the terms and conditions of Newfoundland’s union with Canada would contain absolute protection of the existing rights of the churches to public funds for the operation of their schools” and that “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.”<sup>17</sup> Smallwood maintained that he was disgusted to discover that Gordon Higgins, the “prominent and respected” Catholic member of the delegation and the president of the influential Benevolent Irish Society, had not called on Roche to secure his views on education before leaving Newfoundland.<sup>18</sup> In order to overcome Higgins’s shortcomings, to do an end-run around Roche’s opposition, and get assurances from Canadian Catholic hierarchs that confederation would not harm Newfoundland Catholic education, Smallwood arranged for Bradley to meet the Apostolic Delegate to Canada, Archbishop Ildebrando Antonutti, and seek his opinion.<sup>19</sup>

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<sup>16</sup> Public Archives of Canada (hereafter PAC), MG 30 Vol. 6, file: Semi-Official and Personal Correspondence re: Newfoundland 1944-1950, R.A. MacKay to Paul Bridle, 2 May 1947.

<sup>17</sup> J.R. Smallwood, *I Chose Canada* (Toronto, 1973), 306.

<sup>18</sup> This may have occurred because Higgins was not an intimate friend of Roche’s, and Roche was “not an admirer” of Higgins (Robert S. Furlong to the author, 21 November 1991).

<sup>19</sup> Bradley was “a vigorous Protestant” with “a strong antipathy to any possibility of domination of Newfoundland by the Roman Catholic Church.” Smallwood, *I Chose Canada*, 307.

Bradley, a former Grand Master of the Orange Lodge of Newfoundland, was squeamish about the meeting. But apparently unaware of (or unconcerned about) Roche's desire to see the *status quo* maintained, Antonutti warmly welcomed Bradley and told him that while divorce would not be a problem (even though it was in Newfoundland, because the Church had always opposed divorce legislation), the Church's principal concern was with the financing of Catholic schools.<sup>20</sup> Smallwood later claimed that Antonutti also told Bradley that "our Church wouldn't want anything by way of rights, school rights, in Newfoundland more than the Protestant schools get in Quebec."<sup>21</sup> Bradley emerged from the meeting delighted and told Smallwood that Antonutti, "though a Roman Catholic and an Italian at that," had completely placed him at ease.<sup>22</sup> Roche's input had been circumvented, and he could now be set up as a straw man by Smallwood.

During the delegation's meetings in Ottawa in early July, the Canadians assured the Newfoundlanders that provincial jurisdiction was complete over education, and that the BNA Act gave the federal government certain powers of safeguarding separate school education. But there would no difficulty, in the event of union, for Newfoundland to insert into its terms "such provisions as they wished to adopt regarding their educational system and the federal government would not be disposed to intervene subsequently in contravention of the wishes of Newfoundland."<sup>23</sup> Five days later the Canadians reiterated this assurance.<sup>24</sup> At a meeting on 11 August, the Canadians explained to the Newfoundland delegation 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," a provision which the Newfoundland Roman Catholic Church wanted but which the United (the former Methodist) Church did not, for it could possibly prevent them from amalgamating their schools with those of other Protestant denominations. Hence, Newfoundland would need its own education clause, and it was made clear to the Newfoundland delegation that it would have to make specific proposals.<sup>25</sup>

The Convention's decision to send a delegation to Canada, and the long time the delegation spent there, upset advocates of responsible

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<sup>20</sup> *Ibid.*, 307-8.

<sup>21</sup> Smallwood, *I Chose Canada*, 572.

<sup>22</sup> *Ibid.*, 308.

<sup>23</sup> Bridle, *Documents*, 543, minutes of meeting of 2 July 1947.

<sup>24</sup> *Ibid.*, 558, minutes of meeting of 7 July 1947.

<sup>25</sup> *Ibid.*, 618, minutes of meeting of 11 August 1947.

government that “underhanded methods” were being used to promote confederation. During the summer of 1947, the RGL president, F.M. O’Leary, encouraged Archbishop Roche to comment on confederation.<sup>26</sup> On 20 July 1947, Archbishop Flynn read an address by Roche to a reunion of the Old Boys’ Alumni Club of St. Bonaventure’s College, a Catholic school adjacent to the cathedral in St. John’s. Roche asserted that because the youth of Newfoundland had grown up in an “undemocratic atmosphere” since 1933, they should awaken from their apathy in order to avert a “national disaster.” They were “the trustees for posterity in a sense that no previous generation could claim to be,” and he warned that “the fate of Newfoundland will be irrevocably determined for weal or woe in the very near future.”<sup>27</sup> The July-August issue of *The Monitor* observed that “It would surely be the supreme tragedy of our history, if by apathy, indifference, lack of enlightened leadership, or the influence of sinister propaganda we were to alienate irretrievably the inheritance which was won for us by our patriotic forbears, which is a sacred heritage from the past.”<sup>28</sup>

Before the Ottawa delegation returned to Newfoundland in early October, Bradley and Smallwood drafted an education term which was circulated to the Canadian cabinet. Prime Minister Mackenzie King noted in his papers that Louis St. Laurent had intimated to the Newfoundlanders that the education term was primarily a matter of concern to Newfoundland rather than to Canada and “that the clause on Education should be drafted by them.” The clause was 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.”<sup>29</sup> But Canadian officials were concerned that it might not be apparent “why a clause of this nature was inserted” into the terms of union, possibly “leaving the impression that this was what the federal government wished.”<sup>30</sup> Therefore, on the return train trip to Newfoundland through Eastern Canada, Smallwood, Higgins, and MacKay discussed an alternative draft, the purpose of which was “to make it clear that the federal government will fall in line

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<sup>26</sup> Frank O’Leary to the author, 12 May 1992, and William J. Ryan to the author, 13 September 1991. O’Leary’s father, F.M. O’Leary, was president of the RGL; Ryan was an architect for the archdiocese and a friend of Roche’s.

<sup>27</sup> *The Monitor*, July-August 1947; also see PAC, MG 27 III B20, Vol. 58, 26 British Government, file 1.

<sup>28</sup> *The Monitor*, July-August 1947, 1.

<sup>29</sup> Bridle, *Documents*, 669, undated note of W.L. Mackenzie King.

<sup>30</sup> *Ibid.*, 669, Memo of J.R. Baldwin, Assistant Secretary of Cabinet to Secretary of State for External Affairs, 10 October 1947.

with the suggestions of the provincial government,” but this draft did not survive.<sup>31</sup> Later that fall at a press conference, St. Laurent reiterated that education had been under the unrestricted control of Newfoundland and maintained that the federal government had drafted the proposals to give effect to the Newfoundlanders’ wishes.<sup>32</sup>

It was one thing to draft a term on education, but quite another for the religious denominations to approve it. For Smallwood, this would be a political necessity. Shortly after the Ottawa delegation returned to St. John’s, Smallwood informed Scott Macdonald that he had discussed the draft clause with the leaders of the Church of England, the United Church Conference, and the Salvation Army, but that none of these had any objection to the wording of the clause.<sup>33</sup> Higgins undertook to bring the draft clause on education to Roche. Macdonald reported to Ottawa that Higgins “called at the Palace and in the absence of the Archbishop, left copies of the two texts with Father O’Mara, the Archbishop’s private secretary and the Administrator of the Archdiocese. Archbishop Roche has since returned to the city but Mr. Higgins has not yet had any further contact with him.”<sup>34</sup> Macdonald also reported that he learned “from an unimpeachable source” that while Roche had taken no public stand on the constitutional question, in private he held “rather strong views” in favour of a return to responsible government.<sup>35</sup>

In October, Prime Minister Mackenzie King sent the Proposed Terms of Union to the governor of Newfoundland who forwarded them to the Convention. In debate, Smallwood spoke on each of the 23 clauses, and emphasized the strength of the proposed clause 19: “If any denomination wishes to go on forever with its own system of schools, their right is guaranteed in clause 19.”<sup>36</sup> Nevertheless, this was only a proposed term, which was not final, and was subject to change by Canada upon receipt of a modifying request of the National Convention. Smallwood told the people of Newfoundland through the Convention that Ottawa,

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<sup>31</sup> Ibid., 669-70.

<sup>32</sup> Ibid., 720, notes on St. Laurent’s meeting with the Press Gallery of the House of Commons, 6 November 1947.

<sup>33</sup> Ibid., 675-6, J.S. Macdonald to Secretary of State for External Affairs, 17 October 1947.

<sup>34</sup> Ibid., 676, J.S. Macdonald to Secretary of State for External Affairs, 17 October 1947.

<sup>35</sup> Ibid., 675-6, J.S. Macdonald to Secretary of State for External Affairs, 17 October 1947.

<sup>36</sup> Hiller and Harrington, *National Convention*, 892.

Knowing as they do ... what our school system is, they were most anxious to protect our rights as they stand today. So they put in a clause to do that. It does exactly that. ... [They] would be prepared to give reasonable consideration to suggestions for modification or addition ... They are open to make it even more binding than it is for the purpose of guaranteeing and protecting the rights of the various classes of persons in Newfoundland.<sup>37</sup>

This was the purpose of clause 19. When asked by Convention member Peter Cashin, a leading anti-confederate and Roman Catholic, whether clause 19 was necessary in view of the fact that section 93 of the BNA Act covered education, Smallwood replied that

I am afraid section 93 does not cover the points in the clause in our terms. There are two points that seemed and seem to be highly desirable in this country today. One point is this: any denomination that has its own schools must be guaranteed the right to have their schools as long as ever they want them to be so; all the rights they have now must be guaranteed to last forever – to have separate denominational schools and to have them paid for out of the public chest. ... On the other hand, if any two denominations who want to unite their two systems of schools ... the right to do that is also in these terms, so that all rights are protected. ... the Government of Canada does not want to interfere in the matter. We all appreciate why that is. It is a delicate matter, and the government does not want to interfere or meddle where our conscience is at stake. They want to protect the rights we have without changing them one iota.<sup>38</sup>

In reply to Convention member Ike Newell, Smallwood observed that while the Newfoundland delegation was in Ottawa, “The last thing we wanted or would welcome would be to run counter to the beliefs or faiths of the people of Newfoundland.”<sup>39</sup> Convention member Gordon Higgins asked whether a Newfoundland government after confederation could subsequently change the education clause. Smallwood replied that if Newfoundlanders voted for confederation in the referendum, “the government elected after[wards] might not have the authority to change that clause. The time to change it, if it is to be changed, is before the referendum is held.”<sup>40</sup>

By December 1947, Roche had still given no reply on the education term. Smallwood later wrote bitterly that Higgins was not received by Roche, and that “we never did get any authoritative report of his feelings

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<sup>37</sup> Ibid., 892.

<sup>38</sup> Ibid., 893.

<sup>39</sup> Ibid., 894.

<sup>40</sup> Ibid., 895.

about the draft terms themselves.”<sup>41</sup> But Roche was highly offended at the notion that any body or delegation other than a responsible government of Newfoundland could legitimately seek terms of union from Canada,<sup>42</sup> and most likely he refused to dignify such an ad-hoc process with a reply. Smallwood and the confederates remained anxious about the education term. In mid-December the Convention officially sent a copy of the terms including the education clause to the archbishop,<sup>43</sup> but again Roche did not reply. At this point, the proposed guarantees for education under confederation appeared to have no effect on the Church’s position on confederation, which under Roche had always been to preserve Catholic rights in education, and to see responsible government returned before negotiations for union were undertaken. However, this position obviously affected the lengths to which Smallwood went to try to satisfy Roman Catholics and other denominations on the education question.

In November 1947, the Church made its first public statement on the confederation issue in *The Monitor*. In an article entitled “Newfoundland at the Parting of the Ways,” Catholics were exhorted to “consider what is best for the country” and recognize that “there has grown up with us during the past four and a half centuries a simple God-fearing way of life which our forebearers have handed down to us and which we must pass on untarnished to posterity.”<sup>44</sup> The only proper body to consider confederation was an elected Newfoundland parliament, and *The Monitor* noted that

a referendum may very often bring about the results desired by the promoters of it and may not actually represent the real view of the voter. This notorious fact has been highlighted too often in recent years for us to accept a referendum as being a truly worthwhile test of public opinion.<sup>45</sup>

The next month *The Monitor* warned that Confederation was irrevocable, and that “a great deal of the information upon which the so-called ‘terms’

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<sup>41</sup> Smallwood, *I Chose Canada*, 309. Ki Su Kim, “J.R. Smallwood and the Negotiation of a School System for Newfoundland, 1946-1948,” *Newfoundland Studies*, Vol. 11, No. 1 (Spring 1995): 60, claims that Smallwood “conversed” with Archbishop Roche over the education question. I have found no evidence to support the claim that such a meeting ever took place.

<sup>42</sup> Robert S. Furlong to the author, 21 November 1991.

<sup>43</sup> AASJ, Roche Papers, W. Gordon Warren to Father O’Mara, 17 December 1947.

<sup>44</sup> *The Monitor*, November 1947, 1.

<sup>45</sup> *Ibid.*

are based is at best well-informed guess-work, and the danger of a hasty decision becomes apparent.”<sup>46</sup>

In January 1948, Convention member Michael Harrington charged that the proposed clause 19 would not protect the rights of denominations to their education systems any more than the guarantees given Manitoba Schools when faced by the contrary intentions of that province’s government in 1890.<sup>47</sup> Smallwood replied that the Manitoba Schools Question taught the Government of Canada not to meddle in education, and that as a result, they would not touch it.<sup>48</sup> He then explicitly stated that if, under confederation, a denomination wished to grieve its treatment over education rights,

They would go to the Supreme Court of Newfoundland, and there they would get justice. The Supreme Court would have to carry out this clause, which guarantees the rights of all the denominations. And if by chance, if by any remote chance, our own Supreme Court failed to carry out this clause ... the case could be appealed to the Supreme Court of Canada itself. That, sir, is a vast improvement over the Manitoba clause. ... I for one would not be so foolish, so short-sighted as to advocate confederation if this education matter had not been fixed up to the satisfaction of all concerned. ... I know my country, sir, believe me, I know the deep and unshakable loyalty of our people – all our people – to their denominations. ... We have a school system which is a Newfoundland system, that has grown up out of our Newfoundland ideals, our Newfoundland outlook on life. It is a system that has grown up naturally, and I am the last person who would upset it or allow it to be upset.<sup>49</sup>

In reply, Cashin reminded the Convention that “if Canadians take charge of our country” there was a threat that “in every probability we will have imposed on us, even forced on us, the adoption of non-denominational schools.”<sup>50</sup> But in his closing speech, Smallwood refuted Cashin’s claim and even promised to drop his advocacy of confederation if it in any way threatened denominational education.<sup>51</sup> In essence, Smallwood ensured that the Convention presented the education clause to the churches and the Newfoundland public as a solemn promise to be ratified and confirmed by Newfoundlanders if they chose the constitutional option of

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<sup>46</sup> *The Monitor*, December 1947, 10.

<sup>47</sup> Hiller and Harrington, *National Convention*, 1119.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.* On 14 January 1948 Smallwood repeated his claim that the education clause 19 would guarantee the denominations’ rights (*ibid.*, 1187).

<sup>50</sup> *Ibid.*, 1371. Cashin spoke on 23 January 1948.

<sup>51</sup> *Ibid.*, 1443.

confederation in the referenda. On a pragmatic political level, Smallwood had to remove education as an issue of contention from the forthcoming referenda debates, for it had the potential among all the issues to de-rail the prospect of confederation if the religious denominations opposed it. In an attempt to secure their acquiescence, the education clause was created to give iron-clad guarantees to the religious denominations that the denominational education system would continue in perpetuity.

At five o'clock in the morning on 28 January 1948, a vigorous all-night debate concluded on Smallwood's motion to include confederation on the ballot paper. The motion was defeated twenty-nine to sixteen,<sup>52</sup> and the Convention recommended to the British government that the only options to appear on the ballot paper should be a continuation of Commission of Government, and a return to responsible government as it existed prior to 1934.<sup>53</sup> But Smallwood was not defeated. He took to the airwaves, exhorting Newfoundlanders to send him telegrams "demanding" that confederation appear on the ballot. Fifty thousand names arrived. While this provided Smallwood with a good campaign list of supporters, it was a theatrical gesture, for on 10 January the governor of Newfoundland had quietly travelled to Britain, and secured Attlee's approval for confederation on the ballot.<sup>54</sup> The referendum campaign began, and with infusions of cash from C.D. Howe and friends of the Liberal party of Canada,<sup>55</sup> Smallwood's campaign took off. It was an intensely personal campaign based on a close knowledge of what people in the outports wanted, not on what the finer points of constitutional law and procedure should be. Messages were kept simple, the grab was always for the emotions, and a few basic themes were always present. These included the personal financial benefits all would reap from confederation, personal attacks on the anti-confederates, the claim of the "fact" that "everyone" was voting for confederation, the "lies" which were being spread about confederation by its opponents, and predictions that religion would play a role in the vote.

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<sup>52</sup> Placing a sectarian emphasis on the Convention's conclusion, J.S. Macdonald noted to Ottawa that eleven of the thirteen Roman Catholics in the Convention had voted against the inclusion of confederation on the ballot (see Bridle, *Documents*, 788, J.S. Macdonald to Secretary of State for External Affairs, 28 January 1948).

<sup>53</sup> Hiller and Harrington, *National Convention*, 1455, Final Report of the National Convention, 29 January 1948.

<sup>54</sup> FitzGerald, "Confederation with Canada," 103.

<sup>55</sup> See Bridle, *Documents*, 910, J.R. Smallwood and F. Gordon Bradley to C.D. Howe, 21 June 1948, asking for another \$20,000 for the confederation campaign.

In reply to the Convention proceedings, *The Monitor* of February 1948 authoritatively stated that “the people of this country should determine only one question at the present time, and that is whether they desire to return to Responsible Government or to retain Commission of Government.” If Newfoundlanders wished to enter into an “irrevocable” union with Canada, this could be “best carried out, and should only be carried out, after suitable negotiations between a full people’s Government of Newfoundland and the Government of the Dominion of Canada.”<sup>56</sup> Responsible government was presented as the only logical, fair and just choice, and the proper position from which Newfoundland would be able to conduct equal negotiations with Canada. To coincide with Catholic Press month and inform its readers about the function of the Catholic press, *The Monitor*’s circulation was increased for the next four months to 20,000 copies per issue, to be distributed across the island to every Catholic home, free of charge.<sup>57</sup>

When Britain announced on 11 March that confederation would be on the ballot, the Confederates were jubilant, and responsible government advocates were outraged. Where was British fair play and justice? There were to be three choices, Commission of Government for another five years, responsible government as it existed in 1933, and confederation with Canada. If there was no clear majority, the option which received the fewest number of votes would be dropped from the ballot and there would be a run-off referendum between the remaining two options. At the end of March *The Monitor* responded to the British announcement and claimed that

to ask the people to go to the polls with such scanty information as they presently possess is indefensible. We have not sufficient information on the many financial and economic aspects of Confederation; and we have no information on any of the important social and spiritual aspects of it. This fact seems to have been lost sight of by the apologists for Confederation, and it must be borne in mind that there may be far more serious ills in prospect than purely economic ones.<sup>58</sup>

*The Monitor* then compared confederation to a marriage between a couple, arranged by their parents without their consultation, and characterized the confederates as “opportunists who would have Confederation now at any price.”<sup>59</sup> Young people were reminded of their responsibility to vote, bearing in mind that the union the confederates

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<sup>56</sup> *The Monitor*, February 1948, 2.

<sup>57</sup> *Ibid.*, 4.

<sup>58</sup> *The Monitor*, March 1948, 1.

<sup>59</sup> *Ibid.*

proposed should only be the result of negotiations between elected parliaments of Newfoundland and Canada.<sup>60</sup>

The first referendum was held on 3 June 1948. Of the three options on the ballot paper, responsible government won, but with a plurality. Commission of Government was chosen by 22,311 voters (14.32%), 64,066 chose confederation with Canada (41.13%), and 69,400 chose responsible government (44.55%).<sup>61</sup> Sixty-seven percent of voters on the Avalon Peninsula, composed of predominantly Roman Catholic districts, voted for responsible government, with 25% supporting confederation and 8% supporting Commission of Government. In St. John's East and West, responsible government received 65.87% and 65.63% support, Harbour Main-Bell Island saw 82.56% support, Ferryland gave the highest with 90.48% support, and Placentia-St. Mary's gave 78.68% support. Off the Avalon Peninsula, 54% voted for confederation, 26% voted for responsible government, and 20% voted for Commission. Essentially, east coast Catholic Newfoundland had voted against confederation while outport Protestant Newfoundland voted for it. Commission of Government was dropped from the ballot. A run-off referendum was scheduled for 22 July.

With these results in hand, the Confederates lost no time. The first referendum left 22,000 pro-British Commission of Government votes up for grabs in the second referendum. Smallwood had fifty thousand small posters made, bearing the words "British Union and Confederation," between which was a multicoloured Union Jack. "The sudden appearance of thousands of these in house windows and elsewhere," Smallwood claimed, "was a violent reminder of the fact that we were British, not American, and that Confederation would allow us to continue to be British subjects."<sup>62</sup> The confederates' new platform was born.

The confederates' second campaign also tried to create the impression that Roman Catholics had been instructed to vote for responsible government by Archbishop Roche. On Sunday 6 June, the pro-responsible government tabloid *The Sunday Herald* reported that for the first time in their history, the Irish Christian Brothers, the Sisters of Mercy, and the Presentation Sisters had gone to the polls.<sup>63</sup> Confederate organizer Harold Horwood later claimed that this was "the most serious mistake of the

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<sup>60</sup> Ibid.

<sup>61</sup> Referenda statistics are taken from FitzGerald, "Confederation of Newfoundland with Canada," 315-17.

<sup>62</sup> Smallwood, "The Story of Confederation," *BNF*, 31.

<sup>63</sup> *The Sunday Herald*, 6 June 1948, 3.

campaign,”<sup>64</sup> for the division of votes by religion in the first referendum was “a split we could use to great profit.”<sup>65</sup> Horwood quickly rushed around St. John’s, buying up all the *Sunday Heralds* he could find.<sup>66</sup> He circled the article about the brothers and nuns. With Smallwood he worked up a list of Newfoundland Orange lodges,<sup>67</sup> of which there were around 190,<sup>68</sup> and sent the article to every lodge in the country.<sup>69</sup> Copies of *The Monitor*’s editorials were also sent to the lodges.<sup>70</sup> The confederate Greg Power (who ironically, was a cousin of Archbishop Roche) later observed that Smallwood called a number of his prominent Protestant supporters into his office, notably the Keans and Barbours, captains of vessels which called at ports around the island. He threw a copy of *The Monitor* on the desk in front of them, told them about the “Borgia from Branch,” “the Popish Plot,” and the “Placentia Machiavelli,” Archbishop Roche. Playing on the RGL’s theme of “Home Rule,” and the perennial myth of the monolithic Roman Catholic Church, he asked them “What do you want? Rome Rule? Now go and tell your people.”<sup>71</sup> The reaction in Orange Newfoundland was swift. Several versions of a general letter to Newfoundland Orangemen were drafted, an exercise in which Smallwood and Bradley had a hand, culminating in a letter calling on Orangemen “to use every effort” to bring the Church’s activities “to nought.”<sup>72</sup> The escalation of sectarianism reached its zenith when the letter quickly became public. Peter Cashin gave it wide distribution in Catholic districts “as evidence of Orange tactics.”<sup>73</sup>

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<sup>64</sup> Harold Horwood, *Joey* (Toronto, 1989), 124.

<sup>65</sup> Horwood, “How We Got Confederation,” *The Evening Telegram*, 28 March 1969, 37.

<sup>66</sup> Horwood, *Joey*, 124-5.

<sup>67</sup> Horwood, “How We Got Confederation,” *Evening Telegram*, 28 March 1969, 37.

<sup>68</sup> Cecil J. Houston and William J. Smyth, *The Sash Canada Wore: A Historical Geography of the Orange Order in Canada* (Toronto, 1980), 83.

<sup>69</sup> Horwood, *Joey*, 124.

<sup>70</sup> Gregory Power to the author, 27 January 1992; also see Centre for Newfoundland Studies Archives, Memorial University Library, St. John’s, J.G. Higgins Papers, 3.01.028, Correspondence J.G. Higgins, 1949-1951, Free Protestant, Grand Bank, to Higgins, 29 March 1950.

<sup>71</sup> Gregory Power to the author, 27 January 1992.

<sup>72</sup> For the full text of the Orange Letter see FitzGerald, “Confederation of Newfoundland with Canada,” 318.

<sup>73</sup> Donald Jamieson, “I Saw the Fight For Confederation,” *BNF*, 102.

On 22 July when the vote took place, the results were anti-climactic. Horwood later explained his view of what happened to the Church and the anti-confederates in the second referendum:

Every right-thinking Protestant in the country went out and voted against them. In the last ten days we fired off tons of gunpowder and distributed thousands of dollars of Union Jacks. The baymen walked and crawled, and went in wheelchairs to the polling booths, and gave us a 7,000 majority (78,000 to 71,000). The Queen [sic] had been saved and the Pope sent back to his lair.<sup>74</sup>

When the final votes were counted, 84.89% of eligible voters had voted. Confederation received 78,323 votes, a bare majority of 6,989 votes over 71,334 votes for responsible government. The predominantly Roman Catholic districts of St. John's East and West, Harbour Main-Bell Island, Ferryland, and Placentia-St. Mary's voted for responsible government, along with the predominantly Church of England districts of Harbour Grace and Port de Grave, while the remaining districts, including the predominantly Roman Catholic districts of St. George's-Port au Port and Placentia West, voted for confederation. Twillingate, which in the first referendum had voted 42% for Commission of Government and 43% for confederation, voted 75% for confederation in the second referendum, seemingly confirming the efficacy of the "British Union" campaign. The Avalon Peninsula had chosen responsible government, but the outports and the rest of Newfoundland had chosen confederation, and won.

At first, the government of Canada was reluctant to accept such a narrow majority for confederation as a basis upon which to proceed with union, fearing a backlash from the very substantial minority of opponents. R.A. MacKay was sent to St. John's to sound out leading opinion on both sides of the question. He met with Smallwood, Bradley, and other confederates, who advised him that Canada should accept the referendum results. He also met informally with Bishops O'Reilly, O'Neill, and Archbishop Flynn to see if confederation would be acceptable. They told MacKay of their fears that under confederation, educational funding would be inadequate. But by granting MacKay an audience, the bishops allowed him to put his own interpretation on their views in his report back to Ottawa. He claimed that the bishops "appreciated a mistake had been made by open opposition to confederation," and he claimed that "they would like a face-saving arrangement."<sup>75</sup> It is unlikely that this

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<sup>74</sup> Harold Horwood, "I'd Do it All Again," in J.R. Thoms, Ed., *Call Me Joey* (St. John's, 1990), 62-3.

<sup>75</sup> PAC, MG 30 E 159 Vol. 3, I.C.C.N.R., General Correspondence, Talk with Coadjutor Archbishop Flynn and Bishop O'Reilly and Bishop O'Neill, 1-2.

represented the views of the three bishops, but it certainly did not represent Roche's. Indeed, at the height of the sectarianism, and in its wake, Roche kept official silence. The MacKay meeting formed an endpoint, after which the Church essentially dropped its opposition to confederation, and contented itself with guarantees to preserve its rights in education.

Having opened a Pandora's Box of sectarianism during the second referendum campaign, Smallwood now had to put the cover back on. He ensured that denominational rights in education were guaranteed in Term 17 of a new draft terms of union, negotiated between an appointed delegation from Newfoundland (of which he was a member) and the Government of Canada during the fall of 1948 in Ottawa. Before the delegation left Newfoundland it held meetings seeking advice on the existing 1947 terms, and submitted the education clause to the Council of Education and to the denominational authorities. The Roman Catholic executive officer, P.J. Hanley, corresponded with Roche and replied to the second Ottawa delegation that the term was generally acceptable, providing that a slight modification be made to include denominational colleges, and that clarification be given on the method of allocating proportionate shares of public funds for education.<sup>76</sup> The terms were signed by the Newfoundland and Canadian delegations in the Senate Chamber on 11 December 1948.<sup>77</sup> During the debate on the final terms in the House of Commons in February 1949, Prime Minister Laurent explained that "It was felt by the delegation from Newfoundland that it would be more effective to have the clause concerning guarantees drawn in this way so that the legislature would have complete control over education but would not have jurisdiction to do things that would impinge upon the rights of minorities. To do those things would be a denial of jurisdiction."<sup>78</sup> In essence, St. Laurent pledged that the Government of Canada accepted the Newfoundland delegation's belief, premise, and understanding that the religious denominations of Newfoundland had rights and jurisdiction over education. St. Laurent assured the House that the *status quo* would not be fixed for all time by Term 17 when it came to permitting the schools of different denominations to amalgamate for a school district, and he reminded MPs that the

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<sup>76</sup> AASJ, Roche Papers, Box 20, file: Educational Affairs 1948, Hanley to Roche, 3 September 1948; Bridle, *Documents*, 1082, memo of Hanley to G.A. Frecker, 22 September 1948.

<sup>77</sup> Space does not permit the reproduction of the full text of the final Term 17, but it may be found in Bridle, *Documents* 2/2, 1247.

<sup>78</sup> Bridle, *Documents* 2/2, 1439, St. Laurent to the House of Commons, 8 February 1949.

Newfoundland legislature could exercise its right to set up other schools, but that “they must not discriminate against the denominational schools in the districts. Such was the desire of the delegates from Newfoundland; and, ... the sanction was to be an appeal to the courts, not an appeal to a political body.”<sup>79</sup> Following St. Laurent’s remarks, the House agreed to the education section of the Newfoundland bill,<sup>80</sup> and on 17 February the House of Commons sent the bill to the Senate, where it received third reading on 16 March 1949.<sup>81</sup> A similar bill passed through the Westminster Parliament and was given Royal Assent on 23 March 1949.<sup>82</sup>

At the end of the day, the victor was J.R. Smallwood. He parlayed his referendum victory into the premiership of the new Canadian province, and relished being Canada’s “Only Living Father of Confederation.” Years later, in considering the role played by Archbishop Roche, Smallwood and confederates such as Jack Pickersgill, Greg Power, and Harold Horwood lost few opportunities to claim that Archbishop Roche was the “real father of confederation.” While Roche’s indirect assent to the editorials in *The Monitor* certainly played into the hands of the confederates, there is no evidence, documentary or oral, to support any contention that Roche preached in pulpits against confederation, or directly instructed Catholics to vote against it. But Roche’s actions played into Smallwood’s hands, who used him as a scapegoat, a straw man to be set up and then knocked over in a bid to obtain political support in outport Protestant Newfoundland for confederation. Roche was not as responsible for sectarianism in the confederation campaigns as he was later portrayed by the confederates. Similarly, the education question could have been a serious stumbling block to the confederate movement. If it had not been handled effectively, it could have had the potential to unite Catholics and Protestants against confederation in ways which Smallwood might not have been able to control. Once a narrow majority voted for confederation in the 22 July 1948 referendum, Smallwood then had to try to heal the rancour and sectarian wounds in Newfoundland society, in part by guaranteeing the continuation of denominational rights in education. This was done in the Terms of Union, which formalized what had hitherto been customary and legal rights in education into constitutional ones. As premier of the new province after 1 April 1949, Smallwood pledged himself to the preservation of those rights, and

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<sup>79</sup> *Ibid.*, 1440.

<sup>80</sup> *Ibid.*, 1444.

<sup>81</sup> *Ibid.*, 1524, fn. 171.

<sup>82</sup> *Ibid.*, 1559, L.D. Wilgress, High Commissioner of Canada in Great Britain to Secretary of State for External Affairs, 24 March 1949.

maintained that position, and was held by the Churches to that position, until he left office in January 1972.