

# Negotiating Final Terms of Union with Canada: The Memorandum Submitted by the Newfoundland Delegation, Ottawa, 13 October 1948

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*Melvin Baker and Peter Neary*

**Introduction**

In June 1946, under the terms of an Act passed by the British-appointed Commission of Government that had been administering Newfoundland since 1934, a National Convention was elected in the country.<sup>1</sup> It had 45 members, eight elected by acclamation, who represented 38 districts.<sup>2</sup> The Convention met at the Colonial Building, St. John's, and was officially opened on 11 September 1946 with Justice Cyril J. Fox, a government appointee, in the chair. Its purpose was spelled out in the National Convention Act. Members were "to consider and discuss among themselves as elected representatives of the people of Newfoundland the changes that have taken place in the financial and economic situation of the Island since 1934, and, bearing in mind the extent to which the high revenues of recent years have been due to wartime conditions, to examine the position of the country and to make recommendations to His Majesty's Government in the United Kingdom as to possible forms of future government to be put before the people at a national referendum."<sup>3</sup> The Convention was elected on a district basis

but it was an advisory body, not a legislature. Under its terms of reference, the United Kingdom government kept to itself the last word on the forms of government about which the people of Newfoundland would ultimately vote. In practice, this proved decisive.

To advance its work, the Convention created 13 investigative committees and then debated their reports extensively. On 28 February 1947, the Convention voted to send fact-finding missions first to London and then to Ottawa. The London delegation met a frosty reception: battered by war and anxious to reduce overseas commitments, the United Kingdom government wanted Newfoundland to be part of Canada and London had reached an understanding with Ottawa in this regard. By contrast, the delegation to Ottawa was well received, formal proceedings beginning on 25 June with an opening ceremony in the Railway Committee Room of the House of Commons. Canada had been preparing for some time for talks with Newfoundland. A cabinet committee on Newfoundland had been appointed and was informed by an interdepartmental committee chaired by R.A. MacKay of the Department of External Affairs, the editor of *Newfoundland: Economic, Diplomatic, and Strategic Studies* (Toronto: Oxford University Press, 1946). The Newfoundland delegation was led by the sitting National Convention chairman, F. Gordon Bradley (Bonavista East), and its other members were T.G.W. Ashbourne (Twillingate), Charles Balam (Humber), Lester Burry (Labrador), P. Wellington Crummey (Bay de Verde), Gordon F. Higgins (St. John's City East), and Joseph R. Smallwood (Bonavista Centre). The task of the delegation was to ascertain from the government of Canada what "fair and equitable basis" might exist for the federal union of Newfoundland and Canada.<sup>4</sup>

On 7 July 1947, it was decided that the talks "had reached a point where sub-committees might profitably be set up to explore more fully and more expeditiously than would be practicable in general meetings a number of subjects which would require to be dealt with in detail as a preliminary to considering the question of a basis of union."<sup>5</sup> Subsequently, the work of the sub-committees was co-ordinated by a drafting committee, which had as its Canadian members Finance Minister

J.L. Ilsley and National Revenue Minister J.J. McCann and as its Newfoundland members Ashbourne, Higgins, and Smallwood. Following consideration of submitted reports and discussion of “the means whereby the principal issues involved in union might be met,” the Canadian members undertook “to report promptly to the Cabinet Committee regarding a basis for union which might be fair and equitable to both Newfoundland and Canada.”<sup>6</sup>

For its labours through a hot Ottawa summer (Smallwood apparently had to persuade Bradley to change from long johns into short underwear),<sup>7</sup> the Newfoundland delegation hoped to return to St. John’s with a firm Canadian offer, but this prospect vanished on 10 August with the death of Fisheries Minister Frank Bridges, the New Brunswick representative in the federal cabinet and the Member of Parliament for York-Sunbury. On 2 September he was succeeded by Milton Gregg, but Prime Minister William Lyon Mackenzie King, fearing Maritime opposition, was unwilling to make an offer to Newfoundland pending the outcome of a 20 October by-election in York-Sunbury, where Gregg was the Liberal candidate to succeed Bridges. In the end, the Newfoundland delegation went home with a compendium of information to show for its efforts; this consisted of a summary of proceedings, together with 15 appendices and an annex.<sup>8</sup> On 10 October, it was tabled in the National Convention inside two black covers and was thereafter known in that body as the Black Books (or Black Book). On 28 October, after Gregg had been elected in York-Sunbury, the Canadian cabinet approved an offer of Terms of Union to be sent to St. John’s. On 6 November, the offer, the product of several drafts, was submitted to the National Convention, where it was known as the Grey Book. (There was no equivalent Newfoundland offer to Canada. In these negotiations, Canada proposed and Newfoundland responded.) In a covering letter to Governor Sir Gordon Macdonald sent with the proposed terms, Mackenzie King spelled out what would and would not be possible in further negotiations:

I feel I must emphasize that as far as the financial aspects of the proposed arrangements for union are concerned, the Government of Canada believes that the arrangements go as far as the Government can go under the circumstances. The Government could not readily contemplate any change in these arrangements which would impose larger financial burdens on Canada. On the other hand, with respect to those matters which are primarily of provincial concern, such as education, the Government of Canada would not wish to set down any rigid conditions, and it would be prepared to give reasonable consideration to suggestions for modification or addition.<sup>9</sup>

Having debated the Canadian offer, the National Convention completed its work on 30 January 1948. Its advice to the British government was that the referendum to be held on the constitutional future of Newfoundland should offer a choice between “Responsible Government as it existed prior to 1934” and “Commission of Government.” When Smallwood had moved in the Convention that the choice of Confederation with Canada also be recommended, his motion had been defeated, on 28 January, by a vote of 29 to 16. The British, however, thought differently and had kept to themselves the last word on the referendum ballot. On 11 March 1948, it was announced from London that the forthcoming vote would offer three choices: “COMMISSION OF GOVERNMENT for a period of five years,” “CONFEDERATION WITH CANADA,” and “RESPONSIBLE GOVERNMENT as it existed in 1933.”<sup>10</sup> If, it was also decided, a majority was not achieved on the first ballot, the option with the least support would be dropped and a runoff vote held between the other two choices. As events unfolded, a second ballot was indeed required to achieve majority. When the first referendum was held on 3 June, 69,400 voters (44.55 per cent) opted for Responsible Government, 64,066 (41.13 per cent) for Confederation, and 22,311 (14.32 per cent) for Commission of Government.<sup>11</sup> In the decisive runoff

vote, held on 22 July, 78,323 (52.34 per cent) voted for Confederation and 71,334 for Responsible Government (47.66 per cent).<sup>12</sup> On 27 July, to the great relief of the British, the Canadian government announced that it was willing to negotiate final Terms of Union with Newfoundland on the basis of this result.

On 30 July, Governor Macdonald announced that a delegation, to be chaired by Commissioner for Justice and Defence, Albert J. Walsh, a Newfoundlander, would now be appointed to go to Ottawa to complete negotiations with Canada.<sup>13</sup> On 5 August, six other members were named to this group: Bradley, Smallwood, St. John's businessman Chesley A. Crosbie (who had led a party in favour of economic union with the United States), Philip Gruchy (the general manager of the Anglo-Newfoundland Development Company, Grand Falls), John B. McEvoy (a St. John's lawyer who had succeeded Bradley as chairman of the National Convention and was well known to MacKay), and Gordon A. Winter (the president of T. & M. Winter Company, St. John's, who had been president of the Newfoundland Board of Trade, 1946–47). J.G. Channing was named as secretary to the delegation.

On 25 August, the delegation began a long series of meetings<sup>14</sup> at the Colonial Building to prepare for the negotiations in Ottawa. The last of these meetings was held on 28 September<sup>15</sup> and the delegation, minus Crosbie, who was injured in a car accident on 1 October, arrived in the Canadian capital early in October.<sup>16</sup> It had as advisers there Dean Vincent MacDonald of the Dalhousie University law school, J.C. Thompson of Peat Marwick, and two senior Newfoundland officials, Secretary for Finance W.M. Marshall and Secretary for Justice H.G. Puddeste.<sup>17</sup>

At the first meeting of the delegation following its appointment, Walsh "suggested that consideration might be given immediately to the manner in which the delegation should proceed with its work to accomplish it with the utmost efficiency and despatch." His own thinking on this matter was that "the delegation would undoubtedly wish to study the various documents submitted by the Canadian Government outlining the terms of Confederation, to examine the many problems with regard to the effects of Confederation upon

Newfoundland which will present themselves to the members as a result,” and to consider similar problems advanced “by representatives of local trade and industry.”<sup>18</sup>

In keeping with this approach, over the next weeks the delegation consulted widely, examined the contents of the Grey Book in detail, and heard from a variety of officials and interest groups. Its impeccably kept minutes, in which business was itemized in a continuous numerical sequence from meeting to meeting, reveal the range of its activities. The delegation’s interlocutors included public and private business enterprises and organizations (Avalon Cooperative Council, Associated Newfoundland Industries Ltd., Bay of Islands Businessmen’s Association, Broadcasting Corporation of Newfoundland, Newfoundland Associated Fish Exporters Ltd. [NAFEL], Newfoundland Board of Trade, Newfoundland Fisheries Board, Newfoundland Motor Trade Association, Watchmakers’ and Jewellers’ Association); companies (Bavarian Brewing Co., Great Eastern Oil and Import Co. Ltd., Imperial Tobacco Co. [Newfoundland] Ltd.); professional associations (Civil Service Association, Newfoundland Medical Association, Newfoundland Teachers Association); labour organizations (Hotel & Restaurant Workers Union, Newfoundland Federation of Labour, various railway unions); and health-care advocacy groups (Newfoundland Tuberculosis Association, Western Memorial Hospital). The delegation was contacted by the Seventh-Day Adventist Church regarding the future of its radio station, VOAR. To inform itself about the operation of Gander airport the delegation heard from the Director of Civil Aviation, H.A.L. Pattison, and his chief accountant, P.G. Spary.

On 31 August the general manager of the publicly owned Newfoundland Railway, H.A. Russell, met with the delegation. Under section 8 of the Grey Book the Newfoundland Railway would become the property of Canada at the union. Though it was not specified here, the understanding was that it would become part of the publicly owned Canadian National Railways.<sup>19</sup> Under section 16, Canada offered to maintain a steamship service between North Sydney and Port aux

Basques (there had been railway service on this route since 1897), to treat through-traffic on this service as all-rail traffic, and to extend to Newfoundland the benefits of the Maritime Freight Rates Act, 1927.<sup>20</sup> Russell told the delegation that “the treatment of freight moving from North Sydney to Port-aux-Basques as all-rail traffic” in combination with the application of existing Canadian freight rates would “cut . . . Newfoundland rates in half” and bring “considerable benefit.”<sup>21</sup> At the same time, though, North Sydney would not be able to accommodate the increased traffic, a large portion of which would “still have to be carried by steamship at existing rates.” For those parts of Newfoundland that depended on steamship service to receive “the benefit of reduced freight rates in the same proportion as the areas accessible to the railway,” it would be necessary “either to subsidize . . . steamship service or to endeavour to have the Maritime Freight Rates Act so extended as to make it applicable to the Steamship Services.” His point, he was told, had already been noted “for further consideration.” At the request of the delegation, Russell next prepared a brief for consideration, but when this was discussed by the delegation on 9 September, it was found to be “too general,” whereupon the general manager was called to the meeting in progress for further consultation.<sup>22</sup>

In its extensive brief to the delegation, the Newfoundland Board of Trade also called for a better transportation deal for Newfoundland than had been offered in the Grey Book. Unless “equalization of freight rates by sea and land routes” was not provided for, areas dependent “on sea transport would be placed at a crippling disadvantage in relation to those other places, particularly distributing centres, which would be chiefly serviced by rail.”<sup>23</sup> When President Lewis Ayre, Secretary H.T. Renouf, and four other Board of Trade *prominenti* met with the delegation on 22 September, they were assured that the suggestions made in their organization’s brief would be taken into account in the forthcoming negotiations.<sup>24</sup> By contrast, the delegation had declined to follow up on a suggestion by Crosbie that a rental agreement be made with Canada for the use of Labrador resources.<sup>25</sup> Another non-starter was a proposal by Smallwood that Canada take over the



French islands of St. Pierre and Miquelon and transfer control of them to Newfoundland.<sup>26</sup>

Based on its deliberations in August and September, the delegation prepared a lengthy memorandum, which constituted the bargaining position of Newfoundland at the start of final negotiations with Canada. The memorandum was given to the Canadian negotiators on 13 October<sup>27</sup> and is printed in full below as a contribution to understanding the making of the final Terms of Union, a constitutional document, and the entry of Newfoundland into the Canadian Confederation “immediately before the expiration of the thirty-first day of March 1949.”<sup>28</sup> The Newfoundland document had five appendices, which are not included here.<sup>29</sup> In the interest of easy reading and without in any way changing meaning, we have adjusted some punctuation, corrected obvious errors, altered layout, and made other minor changes. Our transcription is taken from the copies of the memorandum in the Albert J. Walsh Papers at The Rooms Provincial Archives, St. John’s (MG302.40).

## **Document**

### **Memorandum Submitted by the Newfoundland Delegation, Ottawa, October 1948**

#### I Financial Position of the Province

This matter has already been covered in the document circulated at the Joint Meeting held on the 7th of October, 1948.<sup>30</sup>

#### II Fisheries

##### 1. Newfoundland Fisheries Board

The fisheries of Newfoundland are public fisheries and, as such, will come within the jurisdiction of the Federal Government after Confederation. Their products, as regards export, will also come within Federal jurisdiction.

In the past, the fishing industry in Newfoundland has suffered severely from lack of regulation and control both in grading for export

and in the actual making of sales. The evil results of this unregulated system of production and marketing were recognized some thirty years ago and, accordingly, a system has been developed over a period of years which has been of inestimable benefit to the industry and to those engaged therein who comprise over half the population of the Island. The improvement is particularly noticeable in the salt codfish industry in which Newfoundland must necessarily deal with import organizations in many of its customer countries.

The active authority in Newfoundland at the present time is the Newfoundland Fisheries Board and to deprive that organization of its powers of control and of regulating exports would seriously endanger the whole salt codfish industry (and probably the herring industry) which is so vital to the welfare and economy of our people.

The powers of Newfoundland existing at union to legislate exclusively on matters relating to seacoast fisheries and the regulation of the trade of Newfoundland in fishery products should, notwithstanding the provisions of the British North America Acts, 1867-46,<sup>31</sup> continue for a period not exceeding eight years as the Government of the province may decide and, until repealed or varied by the legislature of the province, the legislation relating to such matters in force at union should continue.

The Federal Government should by annual grant reimburse the province in the amount of expenditure involved in providing the services in these matters which otherwise would be the responsibility of the Federal Government.

## 2. European Sales of Fish

The making of definite arrangements for the continuance of sales of Newfoundland codfish to Europe is a matter of great urgency. Of an average catch of a million quintals, approximately half must be sold in Southern European markets. These markets, under normal conditions, are regarded as "Sterling" markets, since they trade extensively with the United Kingdom and Sterling has, up to 1947, been convertible into Canadian dollars.

During periods when exchange difficulties were experienced between the United Kingdom and some European markets, and Trade and

Payments Agreements had to be resorted to, the sale of Newfoundland fish was provided for therein. This was done in the case of both Spain and Italy and was possible because of the relationship between the United Kingdom and Newfoundland.

This matter is of grave concern to Newfoundland. The loss of European sales would bring about a condition of extreme poverty to thousands of fishermen and would seriously weaken the whole economy of the Province. The consequent necessity of marketing the entire catch on this side of the Atlantic would greatly endanger the stability of the fishing industry of the whole eastern seaboard of Canada.

### 3. Bait Services

At the present time, the Newfoundland Government owns and operates twenty bait depots situate at various places throughout the Island and it is proposed to erect additional depots in the near future. The Government also operates the M.V. "Malakoff" as a bait supply vessel. These depots supply bait for the use of inshore and bank fishermen and they have proved of great value not only to Newfoundland fishermen but also to fishing vessels from the Maritime Provinces.

It is suggested that, as a means of encouraging the fisheries, these depots should be taken over by the Federal Government and operated to provide a free bait service to fishermen. The service should be available to all Canadian fishermen, with regional control thereof in Newfoundland.

### 4. Inland Fisheries

Under Section 91 of the British North America Act, the control of sea coast and inland fisheries is vested in the Federal Government. Clarification of the policy of the Federal Government with respect to control, supervision, development and improvement of the inland fisheries of Newfoundland is requested.

## III Constitutional and Legal Matters

Clauses 1, 2 and 23 of the proposed arrangements for the entry of Newfoundland into Confederation relate to the territory and status of Newfoundland as a Province of Canada; and to the provision to be

made in the instrument of union or in legislative enactment for such things as citizenship, continuation of Newfoundland laws, courts etc., the first constitution of the new Province and the application to Newfoundland of the British North America Acts and the retention by Newfoundland of its natural resources.

It is the opinion of the Newfoundland Delegation that basic to any proper approach to the legal and constitutional problems involved in union is recognition of three facts: (i) that Newfoundland is a colony with a full apparatus of existing laws and courts of laws; (ii) that under existing laws rights have been acquired by and privileges conferred upon individuals and corporations; (iii) that Newfoundland must be provided with the organs of executive and legislative government essential to its function as a Province possessing responsible government and with a defined constitution.

Recognition of such facts involves recognition of the necessity of express provisions in the terms of union as to the immediate application of Dominion legislation to Newfoundland legislation relating to patents, fisheries, shipping, criminal law, taxation etc. It indicates that no such simple formula as that contained in Section 129 of the British North America Act of 1867 can be used with respect to the admission of Newfoundland eighty years after the original union. It will be necessary therefore to provide for the continuation of Newfoundland laws until the various Dominion statutes shall be brought into force, say by Dominion proclamation, at such subsequent dates as will allow of consideration of the terms of present Newfoundland law and of the extension to Newfoundland of the administrative machinery necessary to the effective operation of each Dominion measure in the new Province.

The Newfoundland Delegation firmly believes that the edifice of union must be reared on the foundation of respect for private rights and privileges previously conferred by or under Newfoundland law; and the express preservation of the contractual and/or statutory obligations of the Government of Newfoundland from the exercise of Dominion legislative power as to such of these matters as may otherwise

be within the jurisdiction of Parliament. As illustrative of such matters, mention may be made of exemptions from, or fixed rates of assessment heretofore given to important corporations in respect of import duties, income taxes etc. and of private rights acquired under Trade Mark and Patent statutes.

Finally, there is the great matter of the machinery whereby Newfoundland's entry into Confederation shall be brought about, and provision made for the interim government of Newfoundland until it has, by its own action or that of the British Government or Parliament, secured its own constitution. These matters of constitution, of procedure of admission, and of interim government must receive express mention in the terms of union after very careful consideration of the problems involved and of the wishes of the governments concerned. Thus for example, it may be noted that Section 146 of the British North America Act which expressly provides for the admission of Newfoundland cannot literally be applied and special legislative provision must be made.

In general the Newfoundland Delegation urges the necessity of full consideration of the procedural and transitional matters above mentioned so that agreement may be reached (i) as to how and by whose action Newfoundland will receive constitutional institutions of government and the method of its entry into union may be prescribed; (ii) as to how and to what extent the British North America Acts and existing Dominion legislation shall become applicable to Newfoundland; and (iii) that private rights and governmental obligations existing under Newfoundland legislation must be expressly preserved and carried over into union.

These matters stand apart from such other matters as financial terms, transfer of property, assumption of debts etc. They are of a constitutional nature and variation may be required in procedures heretofore followed in the case of post-Confederation provinces and must be the subject of express provision in the Terms of Union. Some of them are specifically dealt with in subsequent sections.

#### IV Labrador Boundary

Clause 2 of the proposed arrangements for the entry of Newfoundland into Canada provides that the Province of Newfoundland will include the territory of Labrador as defined by the award of the Judicial Committee of the Privy Council in 1927 as Newfoundland territory. The Judicial Committee, in fact, reported to His Majesty and the Report was approved by Order in Council. In the Letters Patent of 1934 by which the Commission of Government was constituted, the Coast of Labrador was defined in accordance with the Report of the Judicial Committee. It is considered that the boundary in the Labrador Peninsula should be set forth exactly in Clause 2 rather than by reference solely to the Report of the Judicial Committee. The Clause would then read as follows:

“The Province of Newfoundland shall comprise all the territory forming the Island of Newfoundland; and the Islands adjacent thereto; and all the Coast of Labrador from a line drawn due North from the eastern boundary of the bay or harbour of Ance Sablon as far as the fifty-second degree of North Latitude, and from thence westward along that parallel until it reaches the Romaine River, and then northward along the left or east bank of that river and its head waters to their source and from thence due north to the crest of the watershed or height of land there, and from thence westward and northward along the crest of the watershed of the rivers flowing into the Atlantic Ocean until it reaches Cape Chidley, the boundary of the Coast of Labrador hereinbefore defined being that which was formulated as the boundary between Canada and Newfoundland in the Labrador Peninsula by the Judicial Committee of His Majesty’s Privy Council in a Report delivered on the twenty-second day of March 1927; and all the Islands adjacent to that part of the said Coast of Labrador.”<sup>32</sup>

## V Family Allowances

There are a number of Newfoundlanders who have moved to Canada during recent years and who are presently residing there with their families. Many of these Newfoundlanders have not been eligible for benefits under the Family Allowance Act, 1944, and amendments thereto, as they have not resided in Canada over three years. It is considered that, as from the date of Union, they should be treated exactly the same as Newfoundlanders residing in Newfoundland at that time who, it is understood, will become eligible for such benefits immediately.

## VI Sick Mariners Benefits for Merchant Seamen and Fishermen

### 1. Designation of Cottage Hospitals

It is essential that Cottage Hospitals should be designated as places where sick mariners and fishermen may receive treatment as provided under Section V of the Canada Shipping Act, 1934 and amendments. In many instances these hospitals are ideally suited and located for the purposes of this Scheme and should be so designated, even though it may involve the expense of enlargement and additional accommodation in some cases.

### 2. Construction of T.B. Sanatoria

The Federal Government might give consideration to the erection of a number of T.B. Sanatoria in Newfoundland primarily for the purpose of taking care of our fishing population. Two such Sanatoria are urgently required, one on the South West Coast and one on the North East Coast. These two coasts are mentioned particularly because at the present time they have absolutely no such services. If these Sanatoria were established, it would relieve a great strain on Provincial expenditure and take a considerable load from our present Sanatorium.

## VII Marine Hospitals

Clause 5 (11) of the proposed arrangements for the entry of Newfoundland into Confederation provides that Marine Hospitals, quarantine and the care of ship-wrecked crews will become the responsibility of the Federal Government.

Clause 4 (4) provides that sick mariners' benefits for merchant seamen and fishermen, as provided under the Canada Shipping Act, 1934 and amendments thereto, will be extended to Newfoundland.

Clause 1 (c) of Annex I A. provides for free hospitalization and treatment for Newfoundland veterans who served in World Wars I and/or II.

The Hospital situated in St. John's and known as the Merchant Navy Hospital, with a capacity of approximately fifty beds, is at the present time caring for the needs of two classes of patients, viz: (a) veterans of World Wars I and/or II and (b) merchant seamen. There is one patient of class (a) for every two patients of class (b).

As responsibility for the care and treatment of both classes of patients will be taken over by the Federal Government, the question of the future operation and maintenance of the Hospital requires consideration and, in this respect, it would seem that, for the present at any rate, there are only two possible courses open: -

- (i) The Federal Government should take over the institution, or
- (ii) The Provincial Government, through its Department of Public Health and Welfare, should continue to operate and maintain the institution on the understanding that the Federal Government will assume responsibility for any deficit arising from its operation.

### VIII Assistance for Housing

Newfoundland, in common with other Provinces of Canada, has a housing problem brought about by (i) a shortage of building materials during and after World War II, and (ii) the return to civilian life of Newfoundland war veterans who married during the period they were on active service, or have married since their return to Newfoundland. The problem is particularly acute in industrial areas.

However, Newfoundland, unlike Canada, is practically without municipalities so that Federal Aids to housing and other housing assistance may have to be operated in Newfoundland through other agencies.



After investigation in Ottawa by a Committee of the Newfoundland Delegation, proposals will be submitted in this respect.

## IX Newfoundland Railway

### 1. Management

By reason of Newfoundland's insular position, it is absolutely essential that the management of the Newfoundland Railway should be kept at a higher level than that suggested in the report submitted by officials of the Canadian National Railway at the discussions held in Ottawa in 1947 (see Appendix VII, p. 26 of the Black Book, Vol. II).

The General Manager of the Railway must, of necessity, have the status of a Regional Manager coming under the direct supervision of Head Office in Montreal<sup>33</sup> and, in this respect, the following should be noted: -

- (i) When it becomes part of the Canadian National Railway System, the Newfoundland Railway should be operated in the same way as the Atlantic Region in Moncton and should be known as the "Newfoundland Region" with headquarters in St. John's.
- (ii) Owing to geographical and climatic conditions, decisions have to be made on the spot at very short notice, thereby necessitating greater authority than the highest official in St. John's would have if his status was less than that of a Regional Manager.

### 2. Freight Rates

- (i) Standard Canadian classifications and tariffs, including the Maritime Freight Rates Act, 1927, and amendments thereto, should apply to Newfoundland. The extended railway mileage basis should also apply throughout the Newfoundland System so as to include transfers to coastal steamers at terminals for delivery to all ports along the coast.<sup>34</sup>
- (ii) Special rates in effect on the Canadian National Railways in respect of grain and grain products, fertilizer, etc.,

moving from the West to North Sydney, should be extended to all points in Newfoundland, together with any other special tariffs in effect from the West to points in the Maritime Provinces. Shipments from Newfoundland to other Provinces or to the Canadian/American Border en route to points in the United States should move on the same rate basis as do exports from the Maritime Provinces to such points.

3. Freight Movements

- (i) Freight facilities at North Sydney and Port aux Basques must be extended. Entry into Confederation will result in Newfoundland being converted from an export market to a domestic market and the amount of freight passing through these ports will increase considerably. At the present time, existing facilities are definitely incapable of handling such increase.
- (ii) During winter months, and at such other times as the capacities of North Sydney and Port aux Basques may be over-taxed, provision must be made to use the ports of Montreal and Halifax for the distribution of freight. For some years past, excess freight, i.e. freight beyond the ability of the Newfoundland Railway to handle, has been considerable and has been handled by the Furness-Red Cross Line, Blue Peter Steamships Ltd., Shaw Steamship Company Ltd., Clarke Steamship Co. Ltd., and other private operators.
- (iii) During winter months, when it is necessary to divert freight to Louisburg, the Maritime Freight Rates Act, 1927, and amendments should apply thereto, thus eliminating the considerable freight charges now exacted by the Sydney-Louisburg Railway in this respect.
- (iv) In shipping fish to the West Indies, Newfoundland shippers should receive the same treatment as that accorded to Maritime shippers in the case of fish moving ex Halifax

to the West Indies on steamers of the Canadian National Steamships.

4. Express Rates

Existing express mileage block rates should cover both Railway and Steamship ports in Newfoundland. In other words, the Railway rate should apply throughout and no arbitrary or additional rate should be added for steamer handling.

5. Passenger Rates

The present special sliding scale of rates for travelling East of Levis on the Canadian National Railways should be extended to all Newfoundland Services, both Railway and Coastal.

X Department of Posts and Telegraphs

1. Operation of Department

This service, which will be taken over by the Federal Government, is peculiarly situated in Newfoundland. It is impossible to separate the telegraph and telephone systems from the postal system, except at greatly increased cost and at the risk of impairing the whole service.

It is a matter of great importance to Newfoundland that the whole system, including posts, line and radio telegraphs and telephones, should be operated by the Federal Department of Posts.

2. Radio Telephone Ship to Shore Stations

It is requested that the operating Federal authority should endeavour to retain the very satisfactory frequency allocations at present in use by Newfoundland Radio Telephone Ship to Shore Stations.

XI Civil Aviation

1. Fifth Freedom Traffic

It is desirable that Fifth Freedom rights should be extended to airlines operating through Newfoundland. From the 1st. of March, 1948 to the 31 of August, 1948, approximately 4462 passengers were dropped off or taken on at Gander by Transatlantic carriers (see Appendix II hereto). This is a service to which the people of Newfoundland have become accustomed and which they would miss greatly if discontinued.

2. Harmon Field

It is also desirable that Harmon Field, the U.S. airport on the West Coast of Newfoundland, should become available for use by airlines on regional flights.

3. Gander Airport

- (i) Cottage Hospital. The Department of Public Health and Welfare maintains a Cottage Hospital at Gander known as the "Sir Frederick Banting Memorial Hospital." This is the only hospital at Gander and, while it serves the community of Gander, it is primarily an institution, and the only one, serving a large area extending as far as fifty miles from the Airport. About two-thirds of the patients treated therein come from without the Airport and are subscribing members of the Cottage Hospital area which the hospital serves. Should it cease, the Provincial Government will be forced, at great expense, to construct another within the Cottage Hospital area and even then Gander would still require a hospital. It is very desirable that this hospital should be continued as a Cottage Hospital and that some arrangement should be made with the Federal Government whereby it will also serve the needs of the Airport itself.
- (ii) Roads. The Government of Newfoundland is presently responsible for the maintenance of all roads and streets at Gander. It seems reasonable to suppose that the Federal Government, on taking over Gander, will assume responsibility for this charge. The position might be clarified.
- (iii) Schools and Churches. It is assumed that the rights enjoyed at Gander by schools and churches will continue unimpaired.
- (iv) Extent of Airport. The limits of Gander Airport require definition and provision should be made to safeguard rights of property owners presently existing. A plan of the Airport area is attached hereto as Appendix III.

## XII Benefits to Newfoundland Veterans of World War II<sup>35</sup>

Clause 6 of the proposed arrangements for entry of Newfoundland into Confederation provides for the grant of limited benefits to Newfoundland veterans who served in World War II as set forth in clause 2 of Annex I. Benefits, roughly similar, have already been granted by Newfoundland with the exception of the Re-establishment Credit. This benefit is regarded as the most important one for Newfoundland veterans. The footnote to clause 2 of Annex I indicates that the omission is intentional. The reason for the omission is not stated and there appears to be no distinction in principle between this and the other benefits, many of which may probably not be available to veterans at this date.

Newfoundland veterans who served with the United Kingdom Forces in World War II have received gratuities on a scale below that applying in the case of veterans who served overseas with the Canadian Forces.

It is considered that the Canadian Civil Re-establishment Scheme (including the provision for gratuities and re-establishment credits) should apply to Newfoundland veterans who served with the United Kingdom Forces and in the Newfoundland Regiment as fully as to Newfoundland veterans who served with His Majesty's Canadian Forces. For the purpose of gratuities and re-establishment credits overseas service should have the same meaning as in the Canadian Scheme in view of the fact that the veterans serving in the United Kingdom Forces were, while in the United Kingdom, not overseas within the meaning of the United Kingdom regulations.

It may be pointed out that Newfoundlanders who served with the Canadian Forces have been eligible for all benefits under the Newfoundland Scheme, with the exception of those which they receive regardless of place of residence, under the Canadian Scheme.

In view of the fact that the time limit for application under the Canadian Scheme may have expired in the case of some benefits, it is considered that that time limit should, in the case of Newfoundland veterans, begin as from the date of Union.

Further in connection with Clause 5, it is assumed that the Canadian Act will apply in respect of assessment of disability and dependents' pensions as if Newfoundland veterans of both wars had served with His Majesty's Canadian Forces.

### XIII Radio Broadcasting System

As Newfoundland's population of 327,000 live in some thirteen hundred small settlements scattered over six thousand miles of coastline, and in view of the fact that there are scores of even smaller settlements along Labrador's fifteen hundred miles of coastline, radio broadcasting possesses a national usefulness and importance unrivalled anywhere in North America (with the possible exception of the Yukon, the North West Territories and Alaska). Difficulties of transportation and other causes restrict severely the circulation of newspapers, with the result that, for most of the people, radio is the only way of keeping in touch with the world, and, in addition, is virtually the only means of communicating with them without great delay.

In these circumstances, broadcasting in Newfoundland has acquired a peculiarly personal and intimate character not ordinarily found elsewhere on a large scale in North America. It has also become a very important medium of expression of Newfoundland culture and atmosphere. It would, therefore, be extremely hazardous to interfere drastically with this situation and fatal if premature means were taken to "Canadianise" the Island.

The following points are important: -

- (i) The Broadcasting Corporation of Newfoundland has been assigned the 640 kc. clear channel. It is essential that this frequency should be retained.
- (ii) The Commission of Government has made considerable free time use of radio to enable Government Departments to sponsor popular and useful educational, informational and propaganda programs. It is desirable that the Provincial Government should have the same privilege.
- (iii) The Corporation has given considerable free time to

Churches for the broadcast of religious services and there is also a daily devotional service conducted by a panel of clergymen. It is most desirable that these concessions should be continued.

- (iv) Due to the great physical difficulties experienced by political parties and candidates in canvassing the Island, ample free time should continue to be made available to them for this purpose.
- (v) Considerable latitude should be allowed to the local on-the-spot management of the Corporation in its day-to-day operation of the station, and although the CBC must obviously exercise over-riding control, that control should be generously applied.

#### XIV Penitentiary

In recent years, considerable expenditures have been incurred in making improvements to the Penitentiary at St. John's, where sentences for all serious offences are served. Sentences for minor offences are served in local gaols in various parts of the Island.

It is suggested that the Federal Government should take over the Penitentiary under an arrangement whereby the Province may also make use of it as far as it is necessary and reasonably possible to do so.

#### XV Clarenville Boats

During World War II, the following boats were built by the Commission of Government for the express purpose of carrying on Newfoundland's essential trade: -

M.V. "Clarenville"

M.V. "Burin"

M.V. "Glenwood"

M.V. "Codroy"

M.V. "Exploits"

M.V. "Ferryland"

M.V. "Placentia"

M.V. "Trepassey"

M.V. "Twillingate"

These boats were built by the Department of Natural Resources and were paid for from the Consolidated Revenue of the country. It should be noted that they were built primarily as Government ships and not for on account of the Newfoundland Railway, and they have, in fact, no necessary relation to or bearing upon Railway operations. As and when each boat was completed, it was turned over by the Government to the Railway to be operated by the Railway in the general interests of the economy of Newfoundland and, in doing so, the Railway, as Operating Agent, received administrative and commission charges totalling, to date, \$175,409.78. The actual ownership of the boats, however, remained vested and is presently vested in the Newfoundland Government.

During the period that the boats have been operated by the Railway they have proven indispensable to the general trade of the country. It is now suggested that they should be purchased by the Federal Government and that the Federal Government should continue to operate them in the trade of the Province with the Railway acting as Operating Agent as at present.

#### XVI Superior and County Courts

It is considered that Clause 6 of the proposed arrangements for the entry of Newfoundland into Confederation should be amended to provide as follows:

"6. Canada will pay the salary of the Lieutenant Governor and the salaries, allowances and pensions of Superior Court Judges, including a Chief Justice of Appeal when appointed, and of judges of district and county courts up to seven in number, if and when established."<sup>36</sup>



## XVII Public Harbours

It is understood that “public harbours” in Canada are such as may be so designated by authority. Because of the fact that Newfoundland is an island with the majority of its population living along the coast-line, transportation is, and must necessarily be, principally by water. Consequently, harbours in Newfoundland possess an importance which is not usually found elsewhere in Canada. In all the more important harbours, public wharves have been erected by the Newfoundland Government and, in some cases, by the Newfoundland Railway.

In view of the peculiar insular circumstances of the country, an assurance is sought from the Federal Government that sufficient harbours in Newfoundland will be designated as “public harbours” and that, if so requested by the Provincial Government, one or two harbours will be placed under the supervision and control of the National Harbours Board.

The following wharves and other marine works are maintained by the Newfoundland Government at various places throughout Newfoundland:-

(i) Wharves maintained primarily for the coastal Steamship Service	74
(ii) Other public wharves	203
(iii) Launchways and slips	250
(iv) Principal breakwaters	4
(v) Other breakwaters and breastworks	142

During the past fourteen years, the average annual cost of maintenance of these marine works was \$114,453.00

## XVIII Public Buildings

### 1. Newfoundland Government Buildings

There will be some public buildings in Newfoundland at the date of Union housing both Federal and Provincial activities. It would be a serious financial handicap to the new Province if it had to vacate such buildings and it is therefore desirable that some mutually satisfactory

arrangement should be made for continued use, by each Government, of buildings housing the activities of both. A list of these buildings is attached as Appendix IV.

2. British Admiralty Buildings

In the event that Canada acquires the British Admiralty buildings presently occupied by the Government of Newfoundland on a care and maintenance or other basis, present arrangements should be continued.

XIX Repatriation of Sterling Surplus

1. Description of Surplus

Clause 9 of the proposed arrangements provides for the retention of the accumulated financial surplus of Newfoundland, subject to certain conditions. A large part of the surplus is held in sterling and made up of an interest free loan to the Government of the United Kingdom, repayable in dollars on demand, amounting to \$9,068,000.00 (made up of a loan of \$10,500,000 from accumulated revenue surplus and \$1,800,000 proceeds of sale of Savings Certificates, less \$3,232,000 withdrawn by the Government of Newfoundland in 1946 for investment in order to pay off two Sterling loans maturing in 1950–1952).

A further part of the accumulated surplus is held in free Sterling with the Crown Agents in London, and a small part is represented by repayable advances to United Kingdom Agency Accounts. A large block of the surplus (over \$5,500,000) is held in Sterling against dollar payments made in Newfoundland to finance sales of fish to European markets in 1947. Similar arrangements are effective for financing sales in European markets, of codfish caught during the present fishing season. It is too early to estimate accurately the amount of the surplus which will be involved this year, but it may be assumed that it will not exceed 3.5 million dollars. At the 31st of March, 1948, there will be held, in Sterling, interest free loans amounting to \$9,068,000, proceeds of sales of fish amounting to approximately \$9,000,000 and other sterling balances amounting to over \$1,000,000. This will account for approximately \$19,000,000 of the total surplus at the 31st March, 1948, which, following adjustments, including an allowance

in respect of 1948–49 deficit, will, it is estimated, amount to \$24,250,000 at that date.

2. Availability of Surplus

The nine million interest free loan to the United Kingdom is repayable on demand in dollars and the Secretary of State for Commonwealth Relations stated to a Delegation of the National Convention of Newfoundland in 1947, as follows:

“It is, of course, open to the Newfoundland Government, if they so desire, to withdraw the balance of the loans and to decide what purpose they should be put.”

It is assumed, therefore, that no difficulty will be experienced in securing repayment of these loans in dollars.

The amounts to the credit of Newfoundland at the Crown Agents and the balances due for advances to finance dollar expenditure in Newfoundland of United Kingdom Departments will also be available in dollars at short notice.

In the case of the Sterling proceeds of codfish sales, the position is different. The understanding with the United Kingdom respecting these transactions was that the Sterling proceeds arising from the sales would be held against the redemption of the Sterling debt of Newfoundland. Newfoundland will be relieved of responsibility for meeting the Sterling debt, and any further interest and sinking fund payments thereon, and these funds will stand to the credit of Newfoundland but, unless special arrangements are made, will not be convertible into dollars.

It is essential, however, that the whole surplus be made available to the Provincial Government at an early date to finance the development of the Province, and to maintain and improve necessary Government services. If these amounts are not available in dollars, the Province will not be able to carry on essential services.

If the United Kingdom should be unable to make dollars available, it will be necessary for the Government of Canada to take over the portion of the Newfoundland surplus held in Sterling and make

dollars available to the Province for disposition in accordance with Clause 9 of the proposed arrangements.

## XX Income Taxes, Corporation Taxes and Succession Duties

### 1. Tax Agreement

Clause 12 of the proposed arrangement for the entry of Newfoundland into Canada provides that Newfoundland shall have the option of entering into a Tax Agreement for rental to Canada of the Income tax, Corporation Tax and Succession Duties (Inheritance Tax) fields on either of the bases set forth in the Clause. This option is, however, "to be exercised within six months after Union."

The Provincial Legislature may not have sufficient time in which to decide this question if the decision has to be made within six months after the date of Union, particularly where a considerable portion of that time will be lost in setting up the necessary machinery for the election of the Legislature.

It is therefore suggested that the phrase "within six months after Union" should be changed to read "within nine months after Union."

### 2. Change-over and Avoidance of Double Taxation

Provision should be made to avoid double taxation, without loss of revenue to the Province, as a result of taxpayers becoming liable for the payment of taxes to the Federal Government under the Canadian Income Tax Act and amendments thereto, during the year when personal income taxes and business profits taxes are also payable in arrear under the Newfoundland Act.

A separate memorandum on this question will be submitted.

### 3. Taxes Payable to Provincial Government

Whether a Tax Agreement with the Federal Government is entered into by the Provincial Government or not, and whether such Agreement is retroactive or otherwise, Income Tax, Corporation Taxes and Succession Duties in respect of any period prior to the date of union, whether assessed or not and without regard to the date of payment (including arrears), remain the property of the Provincial Government.

It is requested that the services of the Dept. of the Assessor of

Taxes should be made available to the Provincial Government for the collection of all such taxes.

#### 4. Taxation of Co-operative Societies

The co-operative organizations known as "Credit Unions" in Canada are called "Credit Societies" in Newfoundland and, as such, come within the jurisdiction of the Co-operative Societies Act, 1939, and amendments thereto. It is suggested that, for purposes of taxation under the Canadian Income Tax Act, these Societies should be treated in the same manner as Credit Unions.

It is understood that the Canadian Income Tax Act exempts from taxation for a period of three years, all co-operative societies commencing business after the 1st of January 1947. It is considered that this provision should apply to all Co-operative Societies in Newfoundland which are registered under the Co-operative Societies Act at the date of entry into Union, and that such Societies should be exempt from taxation for a period of three years thereafter.

### XXI Transportation

Because of the increase in the purchase of consumer goods by Newfoundland from Canada which will undoubtedly result from Confederation, which increase will be of considerable benefit to Canada, there will be a correspondingly large increase in the quantity of freight to be moved via North Sydney and Port-aux-Basques into and out of Newfoundland. The reduced passenger rates consequent upon the inclusion of the Newfoundland Railway and Steamship System into the Canadian National Railway System will also greatly increase the passenger traffic between these two ports.

It is essential for the protection of our freight and passenger services that Canada should maintain an efficient freight and passenger steamship service capable of taking care of these increased demands and it is, therefore, of paramount importance to Newfoundland and to Canada that Clause 16 (1) of the proposed arrangements for the entry of Newfoundland into Canada, which now reads: -

“Canada will maintain in accordance with the traffic offering a Steamship Service between North Sydney and Port-aux-Basques.”

should be amended to read: -

“Canada will maintain in accordance with the traffic offering an efficient freight and passenger steamship service between North Sydney and Port-aux-Basques.”<sup>37</sup>

## XXII Pensions

Clause 5 of the proposed arrangements for the entry of Newfoundland into Confederation provides that Newfoundland will be relieved of the public cost incurred in respect of each service taken over by the Federal Government. It is assumed from this provision that the Federal Government will also be responsible for the payment of pensions to employees of such services, notwithstanding Clause 17 (3) which reads as follows:

“Pensions of employees of the Government of Newfoundland super-annuated or retired on pension before the service concerned is taken over by Canada will remain the responsibility of the Province of Newfoundland.”

In the fiscal year 1947–1948, the pensions paid in respect of the Customs Department amounted to \$36,200, the Department of Posts and Telegraphs \$64,500 and the Newfoundland Railway \$225,000. As the payment of these pensions is the responsibility of the service concerned and as such services are being taken over by the Federal Government, with the consequent loss to the Provincial Government of such revenues as may be derived therefrom, it is considered that the Federal Government should thereby become responsible for the payment of pensions already awarded, and that, in the case of employees pensioned after the services have been taken over, their pensionable

period should be calculated from the date upon which they joined these services and not from the date of Union.

#### XXIII Unemployment Insurance

It is suggested that Clause 18 of the proposed arrangements for the entry of Newfoundland into Confederation should be amended by deleting the words “or who lose their employment within a six months period after that date” and substituting the following: -

“or who lose their employment at any time after that date and before they have been enabled to build up sufficient reserves to entitle them thereto.”<sup>38</sup>

#### XXIV Education

Clause 19 of the proposed arrangements should be re-drafted 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>39</sup>

#### XXV Defence Establishment

It is noted from Clause 20 of the proposed arrangements for the entry of Newfoundland into Confederation, that Canada will provide for the maintenance of appropriate reserve units of the Canadian Defence

Forces in Newfoundland, including the Newfoundland Regiment.

In recognition of the splendid part played by Newfoundland in two World Wars and in view of its strategic position, definite provision should also be made for:

- (i) the establishment of the Newfoundland Regiment
- (ii) the establishment of Naval units, and
- (iii) the establishment of a branch of the RCAF.

The following comments are made with regard to the above: -

- (i) This Regiment should be continued because of its splendid tradition. As a trained unit, it would be a definite link in Canada's Defence Programme.
- (ii) Newfoundland has, for a century, been recognized as the "cradle of sea-faring men." The record of our sailors during two World Wars in the Royal Navy and the Royal Canadian Navy needs no elaboration. The establishment of Naval Units with the necessary equipment and training personnel is not only recognition of what our sailors did during these two wars, but more important, these Units will be valuable additions to the Royal Canadian Navy.
- (iii) The pick of the youth of Newfoundland served in the R.A.F. and R.C.A.F. in World War II. It would be regrettable not to have a branch of the R.C.A.F. stationed in Newfoundland together with the necessary equipment and training personnel. The growing youth of Newfoundland are air-minded and a unit of the R.C.A.F. would be a very valuable link in the line of Canada's Defence.

#### XXVI Oleo-Margarine

Amendment of Clause 21 of the proposed arrangements for the entry of Newfoundland into Confederation is necessary so as to provide that Newfoundland manufacturers of oleo-margarine and other substitutes for butter may immediately, and without further preliminaries,



engage in inter-provincial trade in the event that present Canadian legislation prohibiting the manufacture and sale of oleo-margarine, etc., is (i) declared ultra vires by the Supreme Court of Canada or (ii) repealed by the Parliament of Canada.

As the Clause now reads, if either of these events occurs, Newfoundland would be severely prejudiced and handicapped by virtue of the fact that manufacturers in other Provinces would be permitted to manufacture and distribute inter-provincially while Newfoundland manufacturers, on the other hand, would still be required to obtain Parliamentary sanction before they could do so.

It is recommended that, immediately after the phrase “except by authority of the Parliament of Canada” in lines 7 and 8 of the Clause, the following or similar words should be added: -

“unless at any time hereafter, the manufacture and sale of oleo-margarine and other substitutes for butter shall become lawful in that part of Canada other than Newfoundland.”<sup>40</sup>

## XXVII Provincial Constitution

It is assumed that, after union, the Lieutenant-Governor will immediately appoint a Provincial Executive to administer the Government of the Province.

As each Province, within the limits of the British North America Act, has the right to regulate its own constitution, it is suggested that the provisional Provincial Constitution of Newfoundland should be as simple as possible. It is also suggested that, in view of the fact that eight of the nine existing Provinces have unicameral legislatures, similar provision should be made, by the Articles of Union, in the case of Newfoundland, leaving the question of a second chamber entirely to the Provincial Legislature.

Provision should also be made as follows: -

- (i) Cap. 2 of the Newfoundland Consolidated Statutes, 1916, should be retained as amended by the Redistribution Act

- of 1932 and with the addition of another district to be known as Labrador.
- (ii) The election of the first Provincial Legislature should be conducted under the Election Act of 1913 and amendments thereto; provision being made for the grant of the franchise to all persons over the age of twenty-one years and for the compilation of a Voters' List from the list of voters prepared for the National Referendum.
  - (iii) The Legislative Disabilities Act (Cap 4 of the Consolidated Statutes, 1916) with amendments, should apply to the first Legislature, provision being made to substitute for the Ministers mentioned in Sec. 2 (1) thereof Ministers appointed to the Departments as existing under Commission of Government.
  - (iv) Chapters 5, 6 and 7 of the Consolidated Statutes 1916, with necessary arrangements, should apply to the first Legislature.
  - (v) The Rules of the House of Assembly in force in 1933 should also apply to the first Legislature.
  - (vi) Authority should be given to the provisional Government to vote Supply to His Majesty pending the meeting of the Legislature.
  - (vii) The Lieutenant-Governor-in-Council should have power to effect any adaptations which may be necessary in any Statute for the purpose of efficiently conducting the first election of a Provincial Legislature, of varying the boundaries of districts for the purpose of the said first election and of administering the laws and carrying on the public business of the Province until specific provision therefor has been made by the Legislature.

These proposals are tentative and may be altered after further consideration and full examination by the legal and constitutional advisers to the Delegation.

### XXVIII Public Health Services

In view of the fact that Public Health Services in Newfoundland are below the level of those of the Maritime Provinces and as considerable expenditure will be required in order to bring them up to this level, which according to medical experts and authorities in Newfoundland is the minimum necessary to provide adequately for the needs of our people, it is suggested that Newfoundland should receive special consideration from the Federal Government in this respect.

### XXIX Newfoundland Government Savings Bank

The Newfoundland Government Savings Bank has been of considerable value to the people of Newfoundland for many years and is presently conducting a most successful savings campaign under the direction of the Government designed to encourage habits of thrift among the youth of the country.

It is also desirable that the Bank should, after union, be permitted to continue its operations as heretofore. Clarification of the interest rates which may be payable in this event is necessary.

### XXX Trans-Canada Highway

The Minister of Trade and Commerce has recently announced that the Federal Government proposes to assist Provincial Governments in providing a Trans-Canada Highway and that a Dominion-Provincial Conference to consider this matter will be held during the present year.

If it should be decided to proceed with this project, an assurance is sought from the Federal Government that the eastern terminus of the highway will be at St. John's and that any plans formulated during the forthcoming Conference will be upon this basis.

### XXXI Clarification of Government Contracts

It is important that some provision should be made to ensure that contracts entered into by or with the Government of Newfoundland will not be prejudiced or affected by union. Similar provision should

also be made in cases where, before the date of union, irrevocable commitments have been entered into by Newfoundland importers with persons, firms or corporations in countries other than Canada.

It is suggested that, to meet both situations, clauses should be inserted in the Articles of Union as follows: -

- (i) "Nothing in any Act of the Parliament of Canada shall in any way abridge, reduce, impair, or derogate from the rights of any person, firm or corporation arising under contracts with the Government of Newfoundland."<sup>41</sup>
- (ii) "The Government of Canada agrees that, notwithstanding any law of the Dominion of Canada prohibiting the importation into Canada of goods produced in any foreign country, importation into Newfoundland will be permitted of any goods from a foreign country in respect of which it shall be proved that, at the date of entry of Newfoundland into union, money to pay for such goods had already been irrevocably deposited in such foreign country, or virtually proved that, although such money had not been deposited in such foreign country at the date of union, the Newfoundland importer was, at the date of coming into effect of union, irrevocably bound by contract to pay such money."

A list of the Acts confirming agreements entered into by the Newfoundland Government in respect of Customs and Income Tax concessions is attached as Appendix V.

### XXXII Canada Shipping Act

#### 1. Coasting Trade

The law relating to coasting in Canada is set forth in Sections 661 to 665 of the Canada Shipping Act, 1934. Foreign-built British ships may not engage in this trade without a licence procurable upon payment of a duty of 25% of the value of hull, machinery, furniture and appurtenances. Ships of foreign registry may not engage in the trade

unless an Order-in-Council has been made under Section 665.

In Newfoundland, foreign-built ships are admitted duty-free and when British owned may be registered as British ships and thereupon engage in the coasting trade. Foreign ships have been permitted to collect pulpwood at places in Newfoundland for carriage to Corner Brook.

It is necessary that provision should be made that all ships on the Newfoundland registry (including foreign-built ships) may be transferred to Canadian registry and engage in the coasting trade without payment of the 25% duty.

There are foreign ships under long-term charter for carriage of pulpwood in Newfoundland and provision is necessary to protect all parties interested in such charters.

Trade between Canada and Newfoundland after Union will become coasting trade and it will be necessary for a period of five to ten years to exempt ships of foreign registry coasting in Newfoundland or between Newfoundland and the Maritime Provinces, from the operation of Part XIII of the Canada Shipping Act, as sufficient British ships are not available.

## 2. Requirements respecting Certified Officers

Sections 113 to 115 of the Canada Shipping Act, 1934, set forth the requirements respecting certified officers.

Newfoundland requirements for voyages to Canada and United States and about the Newfoundland coast and for ships engaged in the fishing industry (including sealing and whaling) are less stringent.

The operation of the Canadian provisions will result in disqualifying the majority of the officers who are fully qualified to operate ships in the coasting trade and have special qualifications as officers of ships engaged in fishing, whaling and seal-hunting. In the interests of the Newfoundland coasting trade and the prosecution of the various branches of her fisheries, it is essential that the application of Part II of the Act to ships operating in Newfoundland and from Newfoundland to Canada and the United States should be suspended for a period of years.

3. Hospitalization of Sick Mariners

Part V of the Canada Shipping Act, 1934, makes provision for hospitalization of sick mariners. In respect of fishing vessels section 306 provides that the ships must be registered in Canada.

The Newfoundland inshore fishery is prosecuted mainly by motor boats which are under ten tons and exempt from registration.

The provisions of Part V would be of great value to all Newfoundland fishermen but registration of small vessels is impracticable. A simplified procedure, for example licensing by Customs or other officers, would enable all fishermen of Newfoundland to avail themselves of the provisions of the Act.

XXXIII Contractual Provisions for Employment of Newfoundland Workmen

1. Goose Bay Air Base

Clause 7 of the Agreement forming the Schedule to the Goose Bay Air Base Act (No. 1 of 1945) provides that the Government of Canada will employ Newfoundland labour as far as practicable at the Air Base. The circumstances in which the Agreement was made are well known.

Under Section 117 of the British North America Act, Canada has the right to assume any lands and public property required for fortifications and for the defence of the country. In view of the fact that the land is already held under lease into which the provisions of the Agreement are incorporated, clarification of the position is necessary. The provisions of clause 7 of the Agreement should continue to have effect in respect of employment at the Air Base by Canada and by any State using the Base with the consent of Canada.

2. Defence Installation

The Agreement respecting Defence Installations entered into between the two Governments in 1946 contains a similar provision. Clarification of the position is also necessary as in the case 1. above.

3. Other Agreements

By Act No. 3 of 1948, the Quebec and North Shore Railway

Company, a Company incorporated by Act of the Parliament of Canada, was authorized to construct and operate a railway in Newfoundland Labrador. This railway will pass through another Province. Section 29 provides for the employment of Newfoundland workmen, if they are available.

By the Agreement forming the Schedule to the Labrador Mining and Exploration Company, Limited Act (No. 4 of 1938), the Company undertook to employ Newfoundland labour if available. A similar clause appears in other agreements confirmed by Newfoundland Statute.

These clauses are of considerable importance to Newfoundland, particularly in relation to operations of companies in Labrador, and it is considered desirable that they should be confirmed in the Articles of Union.

#### XXXIV Loss of Revenue

The decision at the National Referendum of the 22nd of July, 1948, has produced a feeling of uncertainty among importers, distributors and consumers. Importers and distributors fear that, after Confederation, they will be caught with heavy stocks of goods upon which duties have been paid, whilst consumers look forward to cheaper purchases in the near future. The net effect of this situation is that the revenues of the Newfoundland Government have fallen off substantially as a result of the reduction in trade and a deficit in the current year is inevitable. This deficit will have to be met from Newfoundland's accumulated surplus. Since this deficit arises directly from the decision to federate with Canada, and as a reduction of the accumulated surplus will necessarily reduce the available surplus at the time of Union and weaken the ability of the Province to pay its way, it is suggested that consideration should be given to this phase of the inevitable difficulties of adjustment which the new Province will encounter.

#### XXXV Trade and Industry

It is inevitable that the entry of Newfoundland into Union will produce shocks to the Island's economy which it is admittedly the

desire of all parties to the changeover to minimize.

It seems clear that, in order to facilitate the adjustment of Newfoundland to the status of a Province and to cushion the inevitable shock to the Island's economy, Canada should be prepared, for a limited period of time, to abandon some conventional outlook and adopt possibly unprecedented methods of meeting Newfoundland's distinctive needs.

Canada's so-called "austerity programme" might be cited as one illustration of this point. The immediate application of this programme would work great hardship in so far as it might not be possible to import certain raw materials required by our basic and even our secondary industries as well as essential machinery and similar goods.

The imposition of new taxes, the application of a new Customs Tariff and the removal of Customs protection heretofore enjoyed will prejudicially effect many secondary industries in Newfoundland and it is possible that some of them may not be able to continue operations. The closing of a number of these industries would result in considerable loss of employment and would have a serious effect on the economy of the Province. It is considered that an adjustment period should be allowed to enable them to reorganize for operation under the new system.

Specific problems facing Newfoundland's trade and industry are described in other Sections of this Memorandum and, by way of illustration the following special pressing problems may be indicated: -

- (i) The position of industrial concerns which have placed orders in the United States and other countries, excluding Canada, for machinery, machine parts and raw materials, where such goods cannot reach Newfoundland until after the date of Union.
- (ii) The position of industrial concerns which, throughout the probable remaining period of Canada's "austerity programme," will need to continue to place such orders in countries other than Canada.
- (iii) The position of concerns which have goods in bond in Newfoundland of which they have not taken delivery



before Union and the consequent hardship upon them, vis-à-vis their competitors on the mainland of Canada, if they have to pay Canadian taxes in addition to any other taxes which they have already paid.

- (iv) The position of concerns which have in stock at the date of Union goods on which they have paid Newfoundland taxes, if they are also obliged to pay Canadian General Sales Tax, Excise Duty or other taxes thereon.
- (v) The position of concerns which have been granted rights, still unexpired at the date of Union, to charge special depreciation upon certain capital expenditures, if these rights are not continued for the period originally granted.
- (vi) The position arising by reason of loss of tariff concessions made under the Newfoundland Revenue Act on chemicals used in processing low grade ores the extraction of which may not be economical if full tariff rates are paid.
- (vii) The position of the general public with regard to the importations from the United States and other countries of articles of common necessity which are not available in sufficient quantity or of suitable quality in Canada, such as canned milk, barrelled salt beef and barrelled salt pork.

#### Investigation of Effect of Union on Local Industries

After a careful analysis of the situation, the Newfoundland Delegation feels that the problems arising out of the effects of Union upon industries manufacturing for local consumption throughout Newfoundland are national and therefore far-reaching in character. It is felt that considerable dislocation with attendant unemployment is inevitable during the transitionary period and the early stages of Union unless the problems have been properly anticipated and provision made to cushion the economy of the Island against the emergencies which might otherwise result if such industries are not permitted to readjust themselves gradually to the changes incident to Union.

The question necessitates thorough investigation by specialists,

and in the mutual interests of the Dominion generally and the Province of Newfoundland particularly it is urged that a Committee of three experts be appointed immediately by the Federal Government to proceed to Newfoundland with all possible despatch and there consult with the organizations affected for the purpose of formulating a solution to the problems involved.

#### XXXVI Trade Marks and Patents

A registry of Trade Marks has been kept in Newfoundland under the provisions of Chapter 154 of the Consolidated Statutes of Newfoundland (Third Series), 1916, as amended by Act No. 27 of 1943. The Chapter provided that a trade mark once registered shall endure without limitation.

Letters Patents for inventions are granted under the provisions of 18 Geo. V., Cap 9 (1927) as amended by the Acts No. 47 of 1935, No. 5 of 1944 and No. 32 of 1946, and a copy is recorded in a book kept for that purpose. The term of a patent is seventeen years, subject to extension by order of the Supreme Court of Newfoundland. The Patent may be granted to the assignee of the right to obtain the same and every patent is assignable in whole or in part.

Registration of trade marks and the grant of Letters Patent for inventions are regulated by Federal legislation.

In some cases, a trade mark registered in Newfoundland in respect of certain goods in the name of a person, firm or company is registered in Canada in respect of similar goods in the name of a different person, firm or company. Also different assignees of rights to an invention may have letters in Canada and Newfoundland.

The rights of owners of trade marks and patents acquired under Newfoundland law prior to the date of union should be expressly preserved in the Articles of Union.

#### XXXVII Goods in Bonded Warehouses and in Transit

##### 1. Goods in Bonded Warehouses

Various Companies and persons in Newfoundland will have

considerable quantities of goods in bonded warehouses at the date of union. An assurance is requested from the Federal Government that, notwithstanding the austerity programme or other laws or regulations, these Companies and/or persons will be permitted to take delivery of such goods free of any Customs duties whatsoever in the case of imports from Canada and, in the case of imports from countries other than Canada, upon payment of Customs duties at the Canadian rates effective at the time they are passed out of bond.

2. Goods in Transit

Companies and persons in Newfoundland will also have goods in transit from countries other than Canada, at the date of Union. The term "in transit" is to be construed to mean goods of any nature whatsoever for the purpose of which there exists a contract which was made prior to the date of union. An assurance should similarly be given by the Federal Government that Companies and/or persons with such goods in transit will be permitted to take delivery thereof upon arrival.

XXXVIII Federal Taxes

In no circumstances, should goods imported into or manufactured in Newfoundland prior to the date of Union be subject either to Federal Sales Tax or Special War Time Excise Tax.

XXXIX Importation of Certain Articles from the United States and the United Kingdom

1. United States

For many years past Newfoundland has, for various reasons, been accustomed to obtain supplies of certain articles from the United States. A few examples of these articles are as follows:

(i) Salt Beef and Salt Pork (in barrels)

At the present time, Canada is unable to supply Newfoundland's requirements of these items.

(ii) Evaporated Milk (in cans)

Canada is also unable to supply Newfoundland's needs in this respect. This item is one of the most vital necessities

in the list of our food requirements because of the fact that Newfoundland has practically no dairy industry.

(iii) Textiles

The bulk of the textiles used by the lowest income groups in Newfoundland are unobtainable in Canada.

It is essential that the continued importation of these articles from the United States should be permitted for at least a period of time after Confederation, as otherwise a serious disruption of trade and a severe shortage of vitally necessary supplies will result.

For the benefit of fishermen, loggers and the lowest wage earners, and as result of various nutritional and health surveys, the Newfoundland Government has removed all Customs duties from a number of food items including the following: -

- (i) Salt Beef and Pork.
- (ii) Evaporated Milk.
- (iii) Citrus Fruit Juices.

If the continued duty free importation of such items is not permitted, the economy and health of the lowest income groups, which are the most numerous in Newfoundland, will be most adversely affected.

2. United Kingdom

Newsprint mills now operating in Newfoundland have, for many years, obtained much of their machine clothing, principally woolen press machine felts, from the United Kingdom, and mill supplies from the United Kingdom and other countries. Under the Newfoundland Customs Tariff, these items have been entitled to duty free entry.

Some of these articles, particularly woolen felts, are in short supply in Canada at the present time and Canada, who has not been supplying Newfoundland in the past, will not have sufficient capacity to do so in the future without expanding existing facilities. In addition, Newfoundland mills, even if taken on by Canada, will be treated as new customers and, as such, will be placed at the bottom of the suppliers'

lists, thereby involving considerable delay and difficulty in obtaining necessary supplies.

For these reasons, and to enable Newfoundland mills to adjust themselves to Canadian markets, it is essential that the duty free entry of these items should be continued for a period after Confederation.

XL Enrichment of Flour and Oleomargarine

Evidence submitted by the Department of Public Health and Welfare in Newfoundland makes clear the great desirability that the present practice of fortifying the flour consumed in Newfoundland should be continued for years to come.

“Canada Approved Flour” may be suitable on the mainland of Canada, but it is not adequate in Newfoundland where nutritional conditions are different.

Oleomargarine manufactured in Newfoundland is also fortified and the right to continue this practice is also equally desirable.

In 1944, upon the recommendation of the Nutritional Council of the Newfoundland Medical Association, the Commissioner for Public Health and Welfare arranged to have all flour consumed in Newfoundland enriched to the following standard:

	<u>Minimum</u>	<u>Maximum</u>
Thiamin (Vitamin B)	2.0 mg. per lb.	2.5 mg. per lb.
Riboflavin (Vitamin B)	1.2 mg. per lb.	1.5 mg. per lb.
Nicotinic Acid	16.0 mg. per lb.	20.0 mg. per lb.
Iron	13.0 mg. per lb.	16.5 mg. per lb.

In 1947, upon the recommendation of distinguished English, Canadian and American scientists, assimilated calcium in the form of bone meal has also been added.

XLI Passports

Passports are issued in Newfoundland by the Department of Home Affairs. Such passports are valid for a period of ten years but

must be renewed at the end of the first five year period. At the time of Union, there will be many Newfoundland passports in existence which will still be valid and, in addition, there will be a number of Newfoundlanders travelling with their passports. It is essential that arrangements should be made to ensure that these passports will be honoured up to the time they are due for renewal, at which time they can be exchanged for Canadian passports.

At present, the Department of Home Affairs mails passports to Newfoundlanders residing in Newfoundland and it is not necessary to appear in person at the Department to obtain same. However, it is prohibited to mail passports outside Newfoundland. In Canada, passports are issued by the Department of External Affairs at Ottawa. It is essential to know what procedure will have to be followed in order for people residing in Newfoundland to obtain their passports from Ottawa after Union. As Newfoundland will then be a part of the Dominion of Canada, presumably residents of Newfoundland will be permitted to have their passports mailed to them as in the case of other Provinces.

## Notes

- 1 For an overview of the political and constitutional history of Newfoundland, 1945–49, see Peter Neary, *Newfoundland in the North Atlantic World, 1929–1949* (Montreal and Kingston: McGill-Queen's University Press, 1988), 278–340.
- 2 Three members were elected in each of St. John's City (East) and St. John's City (West); two members were elected in each of Grand Falls, Harbour Main, and Humber. The districts that returned members by acclamation were Bay de Verde, Bonavista North, Bonavista South, Fogo, Fortune Bay, Hermitage, St. Barbe, and St. Mary's. For the history of the Convention, see James K. Hiller and Michael Harrington, eds., *The Newfoundland National Convention 1946–1948* (Montreal and Kingston: McGill-Queen's University Press, 1995), vol. 1, *Debates*, and vol. 2, *Reports and Papers*.
- 3 *Acts of the Commission of Government*, 1946, 115.

- 4 Paul Bridle, ed., *Documents on relations between Canada and Newfoundland* (Ottawa: Department of External Affairs, 1984), vol. 2, part 1, 398–99. Bridle served as secretary, Nov. 1946–May 1948, to the interdepartmental committee chaired by R.A. MacKay. He was second secretary of the Canadian High Commission in Newfoundland, May 1948–March 1949. From May to September 1948 and in March 1949 he was Acting High Commissioner in Newfoundland.
- 5 *Meeting between Delegates for the National Convention of Newfoundland and Representatives of the Government of Canada, Ottawa, June 25th–September 29th, 1947, Part I (Summary of Proceedings)*, 6.
- 6 *Meeting between Delegates . . . 1947, Part I (Summary of Proceedings)*, 9.
- 7 Richard Gwyn, *Smallwood: The Unlikely Revolutionary* (Toronto: McClelland and Stewart, 1968), 87.
- 8 *Meeting between Delegates . . . 1947, Part I (Summary of Proceedings), Part II (Answers to Questions — Submissions of Sub-Committees — List of Documents)*.
- 9 *Proposed Arrangements for the Entry of Newfoundland into Confederation: Terms believed to constitute a fair and equitable basis for union of Newfoundland with Canada should the people of Newfoundland desire to enter into confederation, October 29, 1947* (Ottawa: King's Printer, 1948), 3.
- 10 *Acts of the Commission of Government*, 1948, 49.
- 11 *Newfoundland Gazette*, 31 Aug. 1948, 24, 35.
- 12 Ibid.
- 13 Walsh was also Vice-Chairman of the Commission of Government.
- 14 For the minutes of the meetings, see The Rooms Provincial Archives (hereafter RPA), St. John's, GN154.1 (Newfoundland Delegation to Ottawa, 1948: Minutes, 25 Aug.–24 Sept. 1948). For published extracts from the minutes (with related documents), see Bridle, ed., *Documents*, vol. 2, part 2, 1007–94.
- 15 *Evening Telegram* (St. John's), 2 Oct. 1948, 19.
- 16 *Daily News* (St. John's), 29 Sept. 1948, 3; *Evening Telegram*, 8 Oct. 1948, 3; Bridle, ed., *Documents*, vol. 2, part 2, 1116. Crosbie left St. John's for Ottawa on 14 Oct. (*Evening Telegram*, 14 Oct. 1948, 3).
- 17 Under Commission of Government, the senior official in a department was known as the Secretary, a rank equivalent to that of deputy minister under responsible government.

- 18 RPA, GN154, box 1, minutes of the meeting of 25 Aug. 1948.
- 19 *Proposed Arrangements for the Entry of Newfoundland into Confederation*, 6.
- 20 Ibid., 9.
- 21 Bridle, ed., *Documents*, vol. 2, part 2, 1030.
- 22 Ibid., 1052–53.
- 23 There is a copy of the Board's brief in RPA, Albert J. Walsh Papers, MG302.23.
- 24 Bridle, ed., *Documents*, vol. 2, part 2, 1080–81.
- 25 Ibid., 1026.
- 26 Ibid., 1061.
- 27 Ibid., 1121–25. Proceedings had started in Ottawa on 6 Oct.
- 28 The memorandum is excerpted in *ibid.*, 1125–37.
- 29 The appendices were as follows: I: draft provincial budget; II: table of passengers enplaning and deplaning at Gander Airport, 1 March–31 August 1948; III: plan of Gander Airport area; IV: list of public buildings (mainly outside St. John's); V: list of Acts confirming agreements in respect of customs and income tax concessions; and VI: table comparing level of development of Newfoundland with that of the Maritime Provinces.
- 30 For this part of the delegation's memorandum, see Bridle, ed., *Documents*, vol. 2, part 2, 1127–30.
- 31 For a list of these Acts, see the Schedule to the Constitution Act, 1982 (<http://laws-lois.justice.gc.ca/eng/Const/page-17.html#h-59>).
- 32 Term 2 of the final Terms of Union, signed on 11 December 1948, expanded upon the reference to Labrador in the Grey Book but did not include the geographical detail called for by the delegation.
- 33 The Newfoundland negotiators did not succeed in this regard.
- 34 The Newfoundland negotiators likewise failed in their attempt to have the advantages of the Maritime Freight Rates Act, 1927, extrapolated to coastal vessels connecting with the railway. This had no precedent in Canadian practice.
- 35 For the history of the negotiations over veterans' benefits leading to Term 38 in the final Terms of Union, see Peter Neary, "How Newfoundland Veterans became Canadian Veterans: A Study in Bureaucracy and Benefit," in James Hiller and Peter Neary, eds., *Twentieth-Century*



*Newfoundland: Explorations* (St. John's: Breakwater, 1994), 195–237; Peter Neary, *On to Civity Street: Canada's Rehabilitation Program for Veterans of the Second World War* (Montreal and Kingston: McGill-Queen's University Press, 2011).

- 36 For the eventual outcome in regard to these matters, see Term 30 of the final Terms of Union.
- 37 This request was refused by the Canadian government and the language used in 16 (1) of the Grey Book retained but with “a steamship service” changed to “a freight and passenger steamship service.” See Term 32 (1) of the final Terms of Union.
- 38 The open-ended “at any time” was not realized in Term 41 (Unemployment Insurance) of the final Terms of Union.
- 39 For the outcome regarding the complex topic of education, see Term 17 of the final Terms of Union.
- 40 This matter was dealt with in Term 46 (2) of the final Terms of Union.
- 41 This provision was not included in the final Terms of Union. For the legal aftermath, see Peter Neary, “The Supreme Court of Canada and ‘the Bowater’s law,’ 1950,” *Dalhousie Law Journal* 8, 1 (1984): 201–15.