

*Newfoundland*

virtue of that confirmation, will become the Canadians of the tenth Canadian province.

I do not think I should attempt at this time to deal with the terms of union. They will have to be dealt with at some length, I am sure, by hon. members. Perhaps however I may be permitted to refer in a general way to some aspects of the problems we had to consider. We found at the outset that those problems were perhaps even more complex than the ones with which the fathers of confederation had to deal in 1867, and in the months which preceded the adoption of the British North America Act.

The colonies represented at the Quebec conference in 1864 were similar in their development, and similar in their financial and tax structure. It required no great change to divide powers which were practically the same in all the colonies which were coming together—that is, to divide them between the central authority, which would exercise one portion, and the provincial legislatures which would have jurisdiction over the other.

But between Canada and Newfoundland in 1948 there were great differences in the system of taxation and in the administrative structure. Those differences had to be harmonized with the existing fundamental basis of our constitution, the British North America Act. And I may say that there have been no substantial departures from the provisions of the British North America Act. There has been one in connection with education. In the British North America Act provision is made for certain guarantees for denominational schools. But the sanction of those guarantees is an appeal to the governor in council, if anything is done in violation of them.

The experience of the years has been that an appeal to the governor in council over matters which become highly controversial, when they involve the religious beliefs of honest people of diverging views about the way they should worship their Maker, is not an effective safeguard.

With respect to this agreement the delegation from Newfoundland was told that of course we did not pretend to exercise or to ask for any control over their school system. We had none; and we were not going to make it a condition of their entry into Canada that they should give us some control in the central authority as to their education.

The situation was not the same as it was when new provinces were created out of the territories. When the new provinces were created out of the territories this parliament had legislative control over the educational system, and it was turning over that legislative control to the new bodies. It was felt

to be fitting at that time that it should retain some portion of that control to ensure respect for the constitutional safeguards which were being written into the constitutions of those new provinces.

But with respect to Newfoundland, they had at the time of the negotiations, and they have today in their legislative body, full and exclusive control over their educational system. But we said to them, "If, for the satisfaction of your own people, you do wish to have constitutional safeguards written into the terms of union, we will be quite prepared to consider those you will suggest." The treatment they suggested was constitutional safeguards, but constitutional safeguards the application of which will be left to the courts of justice.

It is provided that the legislature will have exclusive control over all educational matters, but must not make any laws that would prejudice what is described in the terms of union as the rights of the denominations which comprise the people of Newfoundland. The legislature has no power to do anything prejudicial. Review will be a matter for the courts. If there ever should be an attempt by the legislature to do anything that would contravene the terms of the union it will not be a matter of appeal to His Excellency the governor in council. It will be a matter for resort to the courts of justice of the island of Newfoundland in the first instance, and then to the ordinary courts administering the laws of the country.

The other departure had to do with oleomargarine. In Newfoundland the dairy industry is very small, and over the years the people of Newfoundland have been using oleomargarine produced from raw materials available in their own economy. At the time of the negotiations the Supreme Court of Canada had not decided that this parliament has no jurisdiction to deal with oleomargarine in the form set out in the Dairy Industry Act. We agreed that there would not be any attempt by this parliament to prevent the people of Newfoundland from continuing to use oleomargarine, because they are not in a position to get the article which many of us regard as more desirable, butter produced by the dairy industry. But it was also provided that, unless and until the manufacture and sale of oleomargarine ceases to be prohibited in the other parts of Canada, they would not ship any of their oleomargarine into the other provinces. Perhaps we would not have felt it was necessary to talk about that problem at all if the judgment of the supreme court had been available at the time negotiations were proceeding. There was a feeling that it was somewhat undesirable to have this special