

Legislature of the province, an appeal shall lie to the Governor General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

(4) In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

Mr. Cashin What is the idea of clause 19 being put in here? If the BNA Act covers it, why inject it in these terms?

Mr. Smallwood I am afraid section 93 does not cover the points in the clause in our terms. There are two points that seemed and seem to be highly desirable in this country today. One point is this: any denomination that has its own schools must be guaranteed the right to have their schools as long as ever they want them to be so; all the rights they have now must be guaranteed to last forever — to have separate denominational schools and to have them paid for out of the public chest.... On the other hand, if any two denominations who want to unite their two systems of schools ... the right to do that is also in these terms, so that all rights are protected; to stay as they are or to go on to something else. That is left entirely to Newfoundland. The Government of Canada does not want to interfere in the matter. We all appreciate why that is. It is a delicate matter, a matter of conscience, and the government does not want to dicker or interfere or meddle where our conscience is at stake. They want to protect the rights we have without changing them one iota. If there is any change, we Newfoundlanders or our school authorities or heads must change them. I do not think there is much likelihood of that. But the right to do it is guaranteed. If not, the right to carry on is guaranteed.

Mr. Cashin It was not guaranteed under the

BNA Act?

Mr. Smallwood It was not guaranteed in section 93. It is a highly complicated and technical matter. All educational authorities and religious authorities are more familiar with it than we are.

Mr. Higgins Does section 93 freeze forever the present setup we have here?

Mr. Smallwood Section 93 would and does — if section 93 applied in these terms, it would mean we could never make any change at all. We must stay as we are forever and a day. If any denominations should ever wish to unite their schools, they could not do it.

Mr. Chairman Unless under clause 4 our provincial statutes under section 93 were found to be inadequate, then the Governor General could intervene.

Mr. Smallwood The Governor General can only intervene where the clause is violated. If the Governor General failed to intervene, or did intervene and the proper authority does not carry it out, then appeal could be made to higher authority, namely the Government of Canada.

Mr. Chairman "In case any such provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made...." Suppose with the passage of time, the system that we have and we retain was found to be inadequate, then where we have made an amending law to bring it into line with subsequent times, the Governor in Council could intervene.

Mr. Higgins My recollection is that there was an interpretation given by the Canadians with whom we spoke. Mr. Smallwood has given that interpretation. I am inclined to suggest it is the correct interpretation.

Mr. Chairman What is the effect of subsection 4?

Mr. Smallwood It is a matter of appeal.

Mr. Chairman Where provincial law is not made?

Mr. Higgins You have the right of appeal to make them enforce it.

Mr. Chairman That is my point.

Mr. Higgins If section 93 passed, and two denominations here decided they were going to amalgamate and any one person of these denominations objected to that happening, then if in spite of that one objection, the province or