

Newfoundland Act

12 & 13 Geo. VI, c. 22 (U.K.)

An Act to confirm and give effect to Terms of Union agreed between Canada and Newfoundland

[23rd March 1949]

Whereas by means of a referendum the people of Newfoundland have by a majority signified their wish to enter into confederation with Canada;

And whereas the Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act has been duly approved by the Parliament of Canada and by the Government of Newfoundland;

And whereas Canada has requested, and consented to, the enactment of an Act of the Parliament of the United Kingdom to confirm and give effect to the said Agreement, and the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:--

1 The Agreement containing Terms of Union between Canada and Newfoundland set out in the Schedule to this Act is hereby confirmed and shall have the force of law notwithstanding anything in the Constitution Acts, 1867 to 1940.

2. Repealed

3. This Act may be cited as the *Newfoundland Act*.

SCHEDULE

TERMS OF UNION OF NEWFOUNDLAND WITH CANADA

Consolidated with amendments

MEMORANDUM OF AGREEMENT ENTERED INTO ON THE ELEVENTH DAY OF DECEMBER, 1948, BETWEEN CANADA AND NEWFOUNDLAND

Whereas a delegation appointed from its members by the National Convention of Newfoundland, a body elected by the people of Newfoundland, consulted in 1947 with the Government of Canada to ascertain what fair and equitable basis might exist for the union of Newfoundland with Canada;

Whereas, following discussions with the delegation, the Government of Canada sent to His Excellency the Governor of Newfoundland for submission to the National Convention a statement of terms which the Government of Canada would be prepared to recommend to the Parliament of Canada as a fair and equitable basis for union, should the people of Newfoundland desire to enter into confederation;

Whereas the proposed terms were debated in the National Convention in Newfoundland and were before the people of Newfoundland when, by a majority at a referendum held on the twenty second day of July, 1948, they expressed their desire to enter into confederation with Canada;

Whereas the Governments of the United Kingdom, Canada and Newfoundland agreed after the referendum that representatives of Canada and Newfoundland should meet and settle the final terms and arrangements for the union of Newfoundland with Canada;

And whereas authorized representatives of Canada and authorized representatives of Newfoundland have settled the terms hereinafter set forth as the Terms of Union of Newfoundland with Canada:

It is therefore agreed as follows

TERMS OF UNION

UNION

1. On, from, and after the coming into force of these Terms (hereinafter referred to as the date of Union), Newfoundland shall form part of Canada and shall be a province thereof to be called and known as the Province of Newfoundland and Labrador.
2. The Province of Newfoundland and Labrador shall comprise the same territory as at the date of Union, that is to say, the island of Newfoundland and the islands adjacent thereto, the Coast of Labrador as delimited in the report delivered by the Judicial Committee of His Majesty's Privy Council on the first day of March, 1927, and approved by His Majesty in His Privy Council on the twenty-second day of March, 1927, and the islands adjacent to the said Coast of Labrador.

APPLICATION OF THE CONSTITUTION ACTS

3. The Constitution Acts, 1867 to 1940, shall apply to the Province of Newfoundland and Labrador in the same way, and to the like extent as they apply to the provinces

heretofore comprised in Canada, as if the Province of Newfoundland and Labrador had been one of the provinces originally united except in so far as varied by these Terms and except such provisions as are in terms made or by reasonable intendment may be held to be specially applicable to or only to affect one or more and not all of the provinces originally united.

REPRESENTATION IN PARLIAMENT

4. The Province of Newfoundland and Labrador shall be entitled to be represented in the Senate by six members, and in the House of Commons by seven members out of a total membership of two hundred and sixty-two.

5. Representation in the Senate and in the House of Commons shall from time to time be altered or readjusted in accordance with the Constitution Acts, 1867 to 1940.

6. (1) Until the Parliament of Canada otherwise provides, the Province of Newfoundland and Labrador shall for the purposes of the election of members to serve in the House of Commons, be divided into the electoral divisions named and delimited in the Schedule to these Terms, and each such division shall be entitled to return one member.

(2) For the first election of members to serve in the House of Commons, if held otherwise than as part of a general election, the Governor General in Council may cause writs to be issued and may fix the day upon which the polls shall be held, and, subject to the foregoing, the laws of Canada relating to by-elections shall apply to an election held pursuant to any writ issued under this Term.

(3) The Chief Electoral Officer shall have authority to adapt the provisions of The Dominion Elections Act, 1938, to conditions existing in the Province of Newfoundland and Labrador so as to conduct effectually the first election of members to serve in the House of Commons.

PROVINCIAL CONSTITUTION

7. The Constitution of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, is revived at the date of Union and shall, subject to these Terms and the Constitution Acts, 1867 to 1940, continue as the Constitution of the Province of Newfoundland and Labrador from and after the date of Union, until altered under the authority of the said Acts.

Executive

8. (1) For the Province of Newfoundland and Labrador there shall be an officer styled the Lieutenant Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada.

(2) Pending the first appointment of a Lieutenant Governor for the Province of Newfoundland and Labrador and the assumption of his duties as such, the Chief Justice, or if the office of Chief Justice is vacant, the senior judge, of the Supreme Court of Newfoundland, shall execute the office and functions of Lieutenant Governor under his oath of office as such Chief Justice or senior judge.

9. The Constitution of the Executive Authority of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the Constitution Acts, 1867 to 1940, continue as the Constitution of the Executive Authority of the Province of Newfoundland and Labrador from and after the date of Union, until altered under the authority of the said Acts.

10. The Lieutenant Governor in Council shall as soon as may be after the date of Union adopt and provide a Great Seal of the Province of Newfoundland and Labrador and may from time to time change such seal.

11. All powers, authorities, and functions that under any statute were at or immediately prior to the date of Union vested in or exercisable by the Governor of Newfoundland, individually, or in Council, or in Commission,

(a) as far as they are capable of being exercised after the date of Union in relation to the Government of Canada, shall be vested in and shall or may be exercised by the Governor General, with the advice, or with the advice and consent, or in conjunction with, the King's Privy Council for Canada or any member or members thereof, or by the Governor General individually, as the case requires, subject nevertheless to be abolished or altered by the Parliament of Canada under the authority of the Constitution Acts, 1867 to 1940; and
(b) as far as they are capable of being exercised after the date of Union in relation to the Government of the Province of Newfoundland and Labrador, shall be vested in and shall or may be exercised by the Lieutenant Governor of the Province of Newfoundland and Labrador, with the advice, or with the advice and consent, or in conjunction with, the Executive Council of the Province of Newfoundland and Labrador or any member or members thereof, or by the Lieutenant Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the Province of Newfoundland and Labrador under the authority of the Constitution Acts, 1867 to 1940.

12. Until the Parliament of Canada otherwise provides, the powers, authorities, and functions vested in or imposed on any member of the Commission of Government of Newfoundland, as such member or as a Commissioner charged with the administration of a Department of the Government of Newfoundland, at or immediately prior to the date of Union in relation to matters other than those coming within the classes of subjects by the Constitution Acts, 1867 to 1940, assigned exclusively to the Legislature of a province, shall in the Province of Newfoundland and Labrador be vested in or imposed on such person or persons as the Governor General in Council may appoint or designate.

13. Until the Legislature of the Province of Newfoundland and Labrador otherwise provides, the powers, authorities, and functions vested in or imposed on any member of the Commission of Government of Newfoundland, as such member or as a Commissioner charged with the administration of a Department of the Government of Newfoundland, at or immediately prior to the date of Union in relation to matters coming within the classes of subjects by the Constitution Acts, 1867 to 1940, assigned exclusively to the Legislature of a province, shall in the Province of Newfoundland and Labrador be vested in or imposed on such person or persons as the Lieutenant Governor in Council may appoint or designate.

Legislature

14. (1) Subject to paragraph two of this Term, the Constitution of the Legislature of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the Constitution Acts, 1867 to 1940, continue as the Constitution of the Legislature of the Province of Newfoundland and Labrador from and after the date of Union, until altered under the authority of the said Acts.

(2) The Constitution of the Legislature of Newfoundland in so far as it relates to the Legislative Council shall not continue, but the Legislature of the Province of Newfoundland and Labrador may at any time re-establish the Legislative Council or establish a new Legislative Council.

15. (1) Until the Legislature of the Province of Newfoundland and Labrador otherwise provides, the powers, authorities, and functions vested in or imposed on a Minister or other public officer or functionary under any statute of Newfoundland relating to the Constitution of the Legislature of Newfoundland as it existed immediately prior to the sixteenth day of February, 1934, shall, subject to these Terms and the Constitution Acts, 1867 to 1940, be vested in or imposed on such person or persons as the Lieutenant Governor in Council may appoint or designate.

(2) Until the Legislature of the Province of Newfoundland and Labrador otherwise provides,

(a) the list of electors prepared pursuant to The List of Electors Act, 1947, shall be deemed to be the list of electors for the purposes of The Election Act, 1913, subject to the provisions of The Election Act, 1913, respecting supplementary lists of electors;

(b) the franchise shall be extended to female British subjects who have attained the full age of twenty-one years and are otherwise qualified as electors;

(c) the Coast of Labrador together with the islands adjacent thereto shall constitute an additional electoral district to be known as Labrador and to be represented by one member, and residents of the said district who are otherwise qualified as electors shall be entitled to vote; and

(d) the Lieutenant Governor in Council may by proclamation defer any election in the electoral district of Labrador for such period as may be specified in the proclamation

16. The Legislature of the Province of Newfoundland and Labrador shall be called together not later than four months after the date of Union.

EDUCATION

17. (1) In lieu of section ninety-three of the British North America act, 1867, this Term shall apply in respect of the Province of Newfoundland and Labrador:

(2) In and for the Province of Newfoundland and Labrador, the Legislature shall have exclusive authority to make laws in relation to education but shall provide for courses in religion that are not specific to a religious denomination.

(3) Religious observances shall be permitted in a school where requested by parents.(2)

Continuation of Laws

General

18. (1) Subject to these Terms, all laws in force in Newfoundland at or immediately prior to the date of Union shall continue therein as if the Union had not been made, subject nevertheless to be repealed, abolished, or altered by the Parliament of Canada or by the Legislature of the Province of Newfoundland and Labrador according to the authority of the Parliament or of the Legislature under the Constitution Acts, 1867 to 1940, and all orders, rules, and regulations made under any such laws shall likewise continue, subject to be revoked or amended by the body or person that made such orders, rules, or regulations or the body or person that has power to make such orders, rules, or regulations after the date of Union, according to their respective authority under the Constitution Acts, 1867 to 1940.

(2) Statutes of the Parliament of Canada in force at the date of Union, or any part thereof, shall come into force in the Province of Newfoundland and Labrador on a day or days to be fixed by Act of the Parliament of Canada or by proclamation of the Governor General in Council issued from time to time, and any such proclamation may provide for the repeal of any of the laws of Newfoundland that

(a) are of general application;

(b) relate to the same subject matter as the statute or part thereof so proclaimed; and

(c) could be repealed by the Parliament of Canada under paragraph one of this Term

(3) Notwithstanding anything in these Terms, the Parliament of Canada may with the consent of the Legislature of the Province of Newfoundland and Labrador repeal any law in force in Newfoundland at the date of Union.

(4) Except as otherwise provided by these Terms, all courts of civil and criminal jurisdiction and all legal commissions, powers, authorities, and functions, and all officers and functionaries, judicial, administrative, and ministerial, existing in Newfoundland at or immediately prior to the date of Union, shall continue in the Province of Newfoundland and Labrador as if the Union had not been made, until altered, abolished, revoked, terminated, or dismissed by the appropriate authority under the British North America Acts, 1867 to 1940

Supply

19. Any statute of Newfoundland enacted prior to the date of Union for granting to His Majesty sums of money for defraying expenses of, and for other purposes relating to, the public service of Newfoundland, for the financial year ending the thirtyfirst day of March, one thousand nine hundred and fifty, shall have effect after the date of Union according to its terms, until otherwise provided by the Legislature of the Province of Newfoundland and Labrador

Patents

20. (1) Subject to this Term, Canada will provide that letters patent for inventions issued under the laws of Newfoundland prior to the date of Union shall be deemed to have been issued under the laws of Canada, as of the date and for the term thereof.

(2) Canada will provide further that in the event of conflict between letters patent for an invention issued under the laws of Newfoundland prior to the date of Union and letters patent for an invention issued under the laws of Canada prior to the date of Union.

(a) the letters patent issued under the laws of Newfoundland shall have the same force and effect in the Province of Newfoundland and Labrador as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland and Labrador as if the Union had not been made; and

(b) the letters patent issued under the laws of Canada shall have the same force and effect in any part of Canada other than the Province of Newfoundland and Labrador as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in any part of Canada other than the Province of Newfoundland and Labrador as if the Union had not been made.

(3) The laws of Newfoundland existing at the date of Union shall continue to apply in respect of applications for the grant of letters patent for inventions under the laws of Newfoundland pending at the date of Union, and any letters patent for inventions issued

upon such applications shall, for the purposes of this Term, be deemed to have been issued under the laws of Newfoundland prior to the date of Union; and letters patent for inventions issued under the laws of Canada upon applications pending at the date of Union shall, for the purposes of this Term, be deemed to have been issued under the laws of Canada prior to the date of Union.

(4) Nothing in this Term shall be construed to prevent the Parliament of Canada from providing that no claims for infringement of a patent issued in Canada prior to the date of Union shall be entertained by any court against any person for anything done in Newfoundland prior to the date of Union in respect of the invention protected by such patent, and that no claims for infringement of a patent issued in Newfoundland prior to the date of Union shall be entertained by any court against any person for anything done in Canada prior to the date of Union in respect of the invention protected by such patent.

Trade Marks

21. (1) Canada will provide that the registration of a trade mark under the laws of Newfoundland prior to the date of Union shall have the same force and effect in the Province of Newfoundland and Labrador as if the Union had not been made, and all rights and privileges acquired under or by virtue thereof may continue to be exercised or enjoyed in the Province of Newfoundland and Labrador as if the Union had not been made

(2) The laws of Newfoundland existing at the date of Union shall continue to apply in respect of applications for the registration of trademarks under the laws of Newfoundland pending at the date of Union and any trademarks registered upon such applications shall, for the purposes of this Term, be deemed to have been registered under the laws of Newfoundland prior to the date of Union

Fisheries

22. (1) In this Term, the expression "Fisheries Laws" means the Act No. 11 of 1936, entitled "An Act for the creation of the Newfoundland Fisheries Board", the Act No. 14 of 1936, entitled "An Act to Prevent the Export of Fish Without Licence", the Act No. 32 of 1936, entitled "An Act to Amend the Newfoundland Fisheries Board Act (No. 11 of 1936)", the Act No. 37 of 1938, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", the Act No. 10 of 1942, entitled "An Act Respecting Permits for the Exportation of Salt Fish", the Act No. 39 of 1943, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", the Act No. 16 of 1944, entitled "An Act Further to Amend the Newfoundland Fisheries Board Acts, 1936-38", and the Act No. 42 of 1944, entitled "An Act Further to Amend the Newfoundland Fisheries Board Act, 1936", in so far as they relate to the export marketing of salted fish from Newfoundland to other countries or to any provinces of Canada.

(2) Subject to this Term, all Fisheries Laws and all orders, rules, and regulations made thereunder shall continue in force in the Province of Newfoundland and Labrador as if the Union had not been made, for a period of five years from the date of Union and thereafter until the Parliament of Canada otherwise provides, and shall continue to be administered by the Newfoundland Fisheries Board; and the costs involved in the maintenance of the Board and the administration of the Fisheries Laws shall be borne by the Government of Canada.

(3) The powers, authorities, and functions vested in or imposed on the Governor in Commission or the Commissioner for Natural Resources under any of the Fisheries Laws shall after the date of Union respectively be vested in or imposed on the Governor General in Council and the Minister of Fisheries of Canada or such other Minister as the Governor General in Council may designate.

(4) Any of the Fisheries Laws may be repealed or altered at any time within the period of five years from the date of Union by the Parliament of Canada with the consent of the Lieutenant Governor in Council of the Province of Newfoundland and Labrador and all orders, rules, and regulations made under the authority of any Fisheries Laws may be revoked or altered by the body or person that made them or, in relation to matters to which paragraph three of this Term applies, by the body or person that under the said paragraph three has power to make such orders, rules, or regulations under the Fisheries Laws after the date of Union.

(5) The Chairman of the Newfoundland Fisheries Board or such other member of the Newfoundland Fisheries Board as the Governor General in Council may designate shall perform in the Province of Newfoundland and Labrador the duties of Chief Supervisor and Chief Inspector of the Department of Fisheries of the Government of Canada, and employees of the Newfoundland Fisheries Board shall become employees in that Department in positions comparable to those of the employees in that Department in other parts of Canada.

(6) Terms eleven, twelve, thirteen and eighteen are subject to this Term.

FINANCIAL TERMS

Debt

23. Canada will assume and provide for the servicing and retirement of the stock issued or to be issued on the security of Newfoundland pursuant to The Loan Act, 1933, of Newfoundland and will take over the Sinking Fund established under that Act.

Financial Surplus

24. (1) In this Term the expression "financial surplus" means the balances standing to the credit of the Newfoundland Exchequer at the date of Union (less such sums as may be required to discharge accounts payable at the date of Union in respect of

appropriations for the public services) and any public moneys or public revenue (including loans and advances referred to in Term twenty five) in respect of any matter, thing, or period prior to the date of Union recovered by the Government of the Province of Newfoundland and Labrador subsequent to the date of Union.

(2) Newfoundland will retain its financial surplus subject to the following conditions:

- (a) one third of the surplus shall be set aside during the first eight years from the date of Union, on deposit with the Government of Canada, to be withdrawn by the Government of the Province of Newfoundland and Labrador only for expenditures on current account to facilitate the maintenance and improvement of Newfoundland public services, and any portion of this one third of the surplus remaining unspent at the end of the eight year period shall become available to the Province of Newfoundland and Labrador without the foregoing restriction;
- (b) the remaining two thirds of the surplus shall be available to the Government of the Province of Newfoundland and Labrador for the development of resources and for the establishment or extension of public services within the Province of Newfoundland and Labrador; and
- (c) no part of the surplus shall be used to subsidize the production or sale of products of the Province of Newfoundland and Labrador in unfair competition with similar products of other provinces of Canada, but nothing in this paragraph shall preclude the Province of Newfoundland and Labrador from assisting industry by developmental loans on reasonable conditions or by ordinary provincial administrative services.

(3) The Government of the Province of Newfoundland and Labrador will have the right within one year from the date of Union to deposit with the Government of Canada all or any part of its financial surplus held in dollars and on the thirty first day of March and the thirtieth day of September in each year to receive with respect thereto interest at the rate of two and five eights per centum per annum during a maximum period of ten years from the date of Union on the minimum balance outstanding at any time during the sixmonth period preceding payment of interest

Loans

25. (1) The Province of Newfoundland and Labrador will retain its interest in, and any securities arising from or attaching to, any loans or advances of public funds made by the Government of Newfoundland prior to the date of Union.

(2) Unless otherwise agreed to by the Government of Canada, paragraph one of this Term shall not apply to any loans or advances relating to any works, property, or services taken over by Canada pursuant to Term thirty-one or Term thirty-three.

Subsidies

26. Canada will pay to the Province of Newfoundland and Labrador the following subsidies:

- (a) an annual subsidy of \$180,000 and an annual subsidy equal to 80 cents per head of the population of the Province of Newfoundland and Labrador (being taken at 325,000 until the first decennial census after the date of Union), subject to be increased to conform to the scale of grants authorized by the Constitution Act, 1907, for the local purposes of the Province and support of its Government and Legislature, but in no year shall sums payable under his paragraph be less than those payable in the first year after the date of Union; and
- (b) an additional annual subsidy of \$1,100,000 payable for the like purposes as the various fixed annual allowances and subsidies provided by statutes of the Parliament of Canada from time to time for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island or any of them and in recognition of the special problems of the Province of Newfoundland and Labrador by reason of geography and its sparse and scattered population.

Tax Agreement

27. (1) The Government of Canada will forthwith after the date of Union make an offer to the Government of the Province of Newfoundland and Labrador to enter into a tax agreement for the rental to the Government of Canada of the income, corporation income, and corporation tax fields, and the succession duties tax field.

(2) The offer to be made under this Term will be similar to the offers to enter into tax agreements made to other provinces, necessary changes being made to adapt the offer to circumstances arising out of the Union, except that the offer will provide that the agreement may be entered into either for a number of fiscal years expiring at the end of the fiscal year in 1952, as in the case of other provinces, or for a number of fiscal years expiring at the end of the fiscal year in 1957, at the option of the Government of the Province of Newfoundland and Labrador, but if the Government of the Province of Newfoundland and Labrador accepts the latter option the agreement will provide that the subsequent entry into a tax agreement by the Government of Canada the any other province will not entitle the Government of the Province of Newfoundland and Labrador to any alteration in the terms of its agreement.

(3) The offer of the Government of Canada to be made under this Term may be accepted by the Government of the Province of Newfoundland and Labrador within nine months after the date of the offer but if it is not so accepted will thereupon expire.

(4) The Government of the Province of Newfoundland and Labrador shall not by any agreement entered into pursuant to this Term be required to impose on any person or corporation taxation repugnant to the provisions of any contract entered into with such person or corporation before the date of the agreement and subsisting at the date of the agreement.

(5) If the Province of Newfoundland and Labrador enters into a tax agreement pursuant to this Term the subsidies payable under Term twenty six will, as in the case of similar subsidies to o(her provinces, be included in the computation of tax agreement payments.

Transitional Grants

28. (1) In order to facilitate the adjustment of Newfoundland to the status of a province of Canada and the development by the Province of Newfoundland and Labrador of revenue producing services, Canada will pay to the Province of Newfoundland and Labrador each year during the first twelve years after the date of Union a transitional grant as follows, payment in each year to be made in equal quarterly installments commencing on the first day of April, namely,

First year	\$6,500,000
Second year	6,500,000
Third year	6,500,000
Fourth year	5,650,000
Fifth year	4,800,000
Sixth year	3,950,000
Seventh year	3,100,000
Eighth year	2,250,000
Ninth year	1,400,000
Tenth year	1,050,000
Eleventh year	700,000
Twelfth year	350,000

(2) The Government of the Province of Newfoundland and Labrador will have the right to leave on deposit with the Government of Canada any portion of the transitional grant for the first eight years with the right to withdraw all or any portion thereof in any subsequent year and on the thirty first day of March and the thirtieth day of September in each year to receive in respect of any amounts so left on deposit interest at the rate of two and five eights per centum per annum up to a maximum period of ten years from the date of Union on the minimum balance outstanding at any time during the six month period preceding payment of interest.

Review of Financial Position

29. In view of the difficulty of predicting with sufficient accuracy the financial consequences to Newfoundland of becoming a province of Canada, the Government of Canada will appoint a Royal Commission within eight years from the date of Union to review the financial position of the Province of Newfoundland and Labrador and to recommend the form and scale of additional financial assistance, if any, that may be required by the Government of the Province of Newfoundland and Labrador to enable it to continue public services at the levels and standards reached subsequent to the date of Union, without resorting to taxation more burdensome, having regard to capacity to pay, than that obtaining generally in the region comprising the Maritime Provinces of Nova Scotia, New Brunswick, and Prince Edward Island.

MISCELLANEOUS PROVISIONS

Salaries of Lieutenant Governor and Judges

30. The salary of the Lieutenant Governor and the salaries, allowances, and pensions of the judges of such superior, district, and county courts as are now or may hereafter be constituted in the Province of Newfoundland and Labrador shall be fixed and provided by the Parliament of Canada.

Public Services, Works and Property

31. At the date of Union, or as soon thereafter as practicable, Canada will take over the following services and will as from the date of Union relieve the Province of Newfoundland and Labrador of the public costs incurred in respect of each service taken over, namely,

- (a) the Newfoundland Railway, including steamship and other marine services;
- (b) The Newfoundland Hotel, if requested by the Government of the Province of Newfoundland and Labrador within six months from the date of Union;
- (c) postal and publicly owned telecommunication services;
- (d) civil aviation, including Gander Airport;
- (e) customs and excise;
- (f) defence;
- (g) protection and encouragement of fisheries and operation of bait services;
- (h) geological, topographical, geodetic, and hydro-graphic surveys;
- (i) lighthouses, fog alarms, buoys, beacons, and other public works and services in aid of navigation and shipping;
- (j) marine hospitals, quarantine, and the care of shipwrecked crews;
- (k) the public radio broadcasting system; and
- (l) other public services similar in kind to those provided at the date of Union for the people of Canada generally.

32. (1) Canada will maintain in accordance with the traffic offering a freight and passenger steamship service between North Sydney and Port aux Basques, which, on completion of a motor highway between Corner Brook and Port aux Basques, will include suitable provision for the carriage of motor vehicles:

(2) For the purpose of railway rate regulation the Island of Newfoundland will be included in the Maritime region of Canada, and through traffic moving between North Sydney and Port aux Basques will be treated as all rail traffic.

(3) All legislation of the Parliament of Canada providing for special rates on traffic moving within, into, or out of, the Maritime region will as far as appropriate, be made applicable to the Island of Newfoundland.

33. The following public works and property of Newfoundland and Labrador shall become the property of Canada when the service concerned is taken over by Canada, subject to any trusts existing in respect thereof, and to any interest other than that of Newfoundland in the same, namely,

- (a) the Newfoundland Railway, including rights of way, wharves, drydocks, and other real property, rolling stock, equipment, ships, and other personal property;
- (b) the Newfoundland Airport at Gander, including buildings and equipment, together with any other property used for the operation of the Airport;
- (c) the Newfoundland Hotel and equipment;
- (d) public harbours, wharves, breakwaters, and aids to navigation;
- (e) bait depots and the motor vessel *Malakoff*;
- (f) military and naval property, stores, and equipment;
- (g) public dredges and vessels except those used for services that remain the responsibility of the Province of Newfoundland and Labrador and except (he nine motor vessels known as the Clarenville boats;
- (h) the public telecommunication system, including rights of way, land lines, cables, telephones, radio stations, and other real and personal property;
- (i) real and personal property of the Broadcasting Corporation of Newfoundland; and
- (j) subject to the provisions of Term thirty four, customs houses and postoffices and generally all public works and property, real and personal, used primarily for services taken over by Canada.

34. Where at the date of Union any public buildings of Newfoundland included in paragraph (i) of Term thirty-three are used partly for services taken over by Canada and partly for services of the Province of Newfoundland and Labrador the following provisions shall apply:

- (a) where more than half the floor space of a building is used for services taken over by Canada the building shall become the property of Canada and where more than half the floor space of a building is used for services of the Province of Newfoundland and Labrador the building shall remain the property of the Province of Newfoundland and Labrador;
- (b) Canada shall be entitled to rent from the Province of Newfoundland and Labrador on terms to be mutually agreed such space in the buildings owned by the Province of Newfoundland and Labrador as is used for the services taken over by Canada and the Province of Newfoundland and Labrador shall be entitled to rent from Canada on terms to be mutually agreed such space in the buildings owned by Canada as is used for the services of the Province of Newfoundland and Labrador;
- (c) the division of buildings for the purposes of this Term shall be made by agreement between the Government of Canada and the Government of the Province of Newfoundland and Labrador as soon as practicable after the date of Union; and

(d) if the division in accordance with the foregoing provisions results in either Canada or the Province of Newfoundland and Labrador having a total ownership that is substantially out of proportion to the total floor space used for its services an adjustment of the division will be made by mutual agreement between the two Governments.

35. Newfoundland public works and property not transferred to Canada by or under these Terms will remain the property of the Province of Newfoundland and Labrador.

36. Without prejudice to the legislative authority of the Parliament of Canada under the Constitution Acts, 1867 to 1940, any works, property, or services taken over by Canada pursuant to these Terms shall thereupon be subject to the legislative authority of the Parliament of Canada.

Natural Resources

37. All lands, mines, minerals, and royalties belonging to Newfoundland at the date of Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the Province of Newfoundland and Labrador, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

Veterans

38. Canada will make available to Newfoundland and Labrador veterans the following benefits, on the same basis as they are from time to time available to Canadian veterans, as if the Newfoundland and Labrador veterans had served in His Majesty's Canadian forces, namely,

- (a) The War Veterans' Allowance Act, 1946, free hospitalization and treatment, and civil service preference will be extended to Newfoundland and Labrador veterans who served in the First World War or the Second World War or both;
- (b) Canada will assume as from the date of Union the Newfoundland pension liability in respect of the First World War, and in respect of the Second World War Canada will assume as from the date of Union the cost of supplementing disability and dependants' pensions paid by the Government of the United Kingdom or an Allied country to Newfoundland and Labrador veterans up to the level of the Canadian rates of pensions, and, in addition, Canada will pay pensions arising from disabilities that are pensionable under Canadian law but not pensionable either under the laws of the United Kingdom or under the laws of an Allied country;
- (c) The Veterans' Land Act, 1942, Part IV of the Unemployment Insurance Act, 1940, The Veterans' Business and Professional Loans Act, and The Veterans Insurance Act will be extended to Newfoundland and Labrador veterans who served in the Second World War;

(d) a reestablishment credit will be made available to Newfoundland and Labrador veterans who served in the Second World War equal to the reestablishment credit that might have been made available to them under The War Service Grants Act, 1944, if their service in the Second World War had been service in the Canadian forces, less the amount of any pecuniary benefits of the same nature granted or paid by the Government of any country other than Canada;

(e) Canada will assume, as from the date of Union, the cost of vocational and educational training of Newfoundland and Labrador veterans of the Second World War on the same basis as if they had served in His Majesty's Canadian forces; and

(f) sections six, seven, and eight of The Veterans Rehabilitation Act will be extended to Newfoundland and Labrador veterans of the Second World War who have not received similar benefits from the Government of any country other than Canada.

Public Servants

39. (1) Employees of the Government of Newfoundland in the services taken over by Canada pursuant to these Terms will be offered employment in these services or in similar Canadian services under the terms and conditions from time to time governing employment in those services, but without reduction in salary or loss of pension rights acquired by reason of service in Newfoundland.

(2) Canada will provide the pensions for such employees so that the employees will not be prejudiced, and the Government of the Province of Newfoundland and Labrador will reimburse Canada for the pensions for, or at its option make to Canada contributions in respect of, the service of these employees with the Government of Newfoundland prior to the date of Union, but these payments or contributions will be such that the burden on the Government of the Province of Newfoundland and Labrador in respect of pension rights acquired by reason of service in Newfoundland will not be increased by reason of the transfer.

(3) Pensions of employees of the Government of Newfoundland who were retired on pension before the service concerned is taken over by Canada will remain the responsibility of the Province of Newfoundland and Labrador.

Welfare and Other Public Services

40. Subject to these Terms, Canada will extend to the Province of Newfoundland and Labrador, on the same basis and subject to the same terms and conditions as in the case of other provinces of Canada, the welfare and other public services provided from

time to time by Canada for the people of Canada generally, which, in addition to the veterans' benefits, unemployment insurance benefits, and merchant seamen benefits set out in Terms thirty-eight, forty-one, and forty-two respectively, include family allowances under The Family Allowances Act, 1944, unemployment insurance under The Unemployment Insurance Act, 1940, sick mariners' benefits for merchant seamen and fishermen under the Canada Shipping Act, 1934, assistance for housing under The National Housing Act, 1944, and, subject to the Province of Newfoundland and Labrador entering into the necessary agreements or making the necessary contributions, financial assistance under The National Physical Fitness Act for carrying out plans of physical fitness, health grants, and contributions under the Old Age Pensions Act for old age pensions and pensions for the blind.

Unemployment Insurance

41. (1) Subject to this Term, Canada will provide that residents of the Province of Newfoundland and Labrador in insurable employment who lose their employment within six months prior to the date of Union and are still unemployed at that date, or who lose their employment within a twoyear period after that date, will be entitled for a period of six months from the date of Union or six months from the date of unemployment, whichever is the later, to assistance on the same scale and under the same conditions as unemployment insurance benefits.

(2) The rates of payment will be based on the individual's wage record for the three months preceding his loss of employment, and to qualify for assistance a person must have been employed in insurable employment for at least thirty per centum of the working days within the period of three months preceding his loss of employment or thirty per centum of the working days within the period since the date of Union, whichever period is the longer.

Merchant Seamen

42. (1) Canada will make available to Newfoundland and Labrador merchant seamen who served in the Second World War on British ships or on ships of Allied countries employed in service essential to the prosecution of the war, the following benefits, on the same basis as they are from time to time available to Canadian merchant seamen, as if they had served on Canadian ships, namely,

- (a) disability and dependants' pensions will be paid, if disability occurred as a result of enemy action or counteraction, including extraordinary marine hazards occasioned by the war, and a Newfoundland and Labrador merchant seaman in receipt of a pension from the Government of the United Kingdom or an Allied country will be entitled, during residence in Canada, to have his pension raised to the Canadian level; and
- (b) free hospitalization and treatment, vocational training, The Veterans' Land Act, 1942, and The Veterans Insurance Act will be extended to disability pensioners.

(2) Vocational training, Part IV of The Unemployment Insurance Act, 1940, and The Veterans Insurance Act will be extended to Newfoundland and Labrador merchant seamen who were eligible for a Special Bonus or a War Service Bonus, on the same basis as if they were Canadian merchant seamen.

(3) The Unemployment Insurance Act, 1940, and The Merchant Seamen Compensation Act will be applied to Newfoundland and Labrador merchant seamen as they are applied to other Canadian merchant seamen.

Citizenship

43. Suitable provision will be made for the extension of the Canadian citizenship laws to the Province of Newfoundland and Labrador.

Defence Establishments

44. Canada will provide for the maintenance in the Province of Newfoundland and Labrador of appropriate reserve units of the Canadian defence forces, which will include the Newfoundland Regiment.

Economic Survey

45. (1) Should the Government of the Province of Newfoundland and Labrador institute an economic survey of the Province of Newfoundland and Labrador with a view to determining what resources may profitably be developed and what new industries may be established or existing industries expanded, the Government of Canada will make available the services of its technical employees and agencies to assist in the work.

(2) As soon as may be practicable after the date of Union, the Government of Canada will make a special effort to collect and make available statistical and scientific data about the natural resources and economy of the Province of Newfoundland and Labrador, in order to bring such information up to the standard attained for the other provinces of Canada.

Oleomargarine

46. (1) Oleomargarine or margarine may be manufactured or sold in the Province of Newfoundland and Labrador after the date of the Union and the Parliament of Canada shall not prohibit or restrict such manufacture or sale except at the request of the Legislature of the Province of Newfoundland, but nothing in this Term shall affect the power of the Parliament of Canada to require compliance with standards of quality applicable throughout Canada.

(2) Unless the Parliament of Canada otherwise provides or unless the sale and manufacture in, and the interprovincial movement between, all provinces of Canada other than Newfoundland and Labrador, of oleomargarine and margarine, is lawful

under the laws of Canada, oleomargarine or margarine shall not be sent, shipped, brought, or carried from the Province of Newfoundland and Labrador into any other province of Canada.

Income Taxes

47. In order to assist in the transition to payment of income tax on a current basis Canada will provide in respect of persons (including corporations) resident in Newfoundland at the date of Union, who were not resident in Canada in 1949 prior to the date of Union, and in respect of income that under the laws of Canada in force immediately prior to the date of Union was not liable to taxation, as follows:

- (a) that prior to the first day of July, 1949, no payment will be required or deduction made from such income on account of income tax;
- (b) that for income tax purposes no person shall be required to report such income for any period prior to the date of Union;
- (c) that no person shall be liable to Canada for income tax in respect to such income for any period prior to the date of Union; and
- (d) that for individuals an amount of income tax for the 1949 taxation year on income for the period after the date of Union shall be forgiven so that the tax on all earned income and on investment income of not more than \$2,250 will be reduced to onehalf the tax that would have been payable for the whole year if the income for the period prior to the date of Union were at the same rate as that subsequent to such date.

Statute of Westminster

48. From and after the date of Union the Statute of Westminster, 1931, shall apply to the Province of Newfoundland and Labrador as it applies to the other provinces of Canada.

Saving

49. Nothing in these Terms shall be construed as relieving any person from any obligation with respect to the employment of Newfoundland labour incurred or assumed in return for any concession or privilege granted or conferred by the Government of Newfoundland prior to the date of Union.

Coming into Force

50. These terms are agreed to subject to their being approved by the Parliament of Canada and the Government of Newfoundland; shall take effect notwithstanding the Newfoundland Act, 1933, or any instrument issued pursuant thereto; and shall come into force immediately before the expiration of the thirtyfirst day of March, 1949, if His

Majesty has theretofore given His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

Signed in duplicate at Ottawa this eleventh day of December, 1948

On behalf of Canada:

"LOUIS S. ST. LAURENT"

"BROOKE CLAXTON"

On behalf of Newfoundland:

"ALBERT J. WALSH"

"F. GORDON BRADLEY"

"PHILIP GRUCHY"

"JOHN P. MCEVOY"

"JOSEPH R. SMALLWOOD"

"G.A. WINTER"

SCHEDULE

In this Schedule the expression "District" means District as named and delimited in the Act 22 George V, Chapter 7 entitled "An Act to amend Chapter 2 of the Consolidated Statutes of Newfoundland (Third Series) entitled 'Of the House of Assembly' "

GRAND FALLSWHITE BAY shall consist of the Districts of White Bay, Green Bay, and Grand Falls, and all the territory within a radius of five miles of the Railway Station at Gander, together with the Coast of Labrador and the Islands adjacent thereto.

BONAVISTA-TWILLINGATE shall consist of the Districts of Twillingate, Fogo, Bonavista North, and Bonavista South, but shall not include any part of the territory within a radius of five miles from the Railway Station at Gander.

TRINITY-CONCEPTION shall consist of the Districts of Trinity North, Trinity South, Carbonear-Bay de Verde, Harbour Grace, and Port de Grave.

ST. JOHN'S EAST shall consist of the District of Harbour MainBell Island and that part of the Province bounded as follows, that is to say: By a line commencing at a point where the centre line of Beck's Cove Hill intersects the North shore of the Harbour of St. John's, thence following the centre line of Beck's Cove Hill to the centre of Duckworth Street, thence westerly along the centre line of Duckworth Street to the centre of Theatre Hill, thence following the centre line of Theatre Hill to the Centre of Carter's Hill, thence following the centre line of Carter's Hill and Carter's Street to the centre of Freshwater Road, thence following the centre line of Freshwater Road to its intersection with the centre of Kenmount Road, and thence along the centre line of Kenmount Road to its intersection with the North Eastern boundary of the District of Harbour MainBell Island, thence along the said North Eastern boundary of the District of Harbour MainBell Island to the shore of Conception Bay and thence following the

coastline around Cape St. Francis and on to the Narrows of St. John's Harbour and continuing along by the North Shore of St. John's Harbour to a point on the North shore of the said Harbour intersected by the centre line of Beck's Cove Hill, the point of commencement.

ST. JOHN'S WEST shall consist of the Districts of Placentia St. Mary's and Ferryland, and that part of the Province bounded as follows, that is to say: By a line commencing at the Motion Head of Petty Harbour and running in a straight line to the Northern Goulds Bridge (locally known as Doyle's Bridge) thence following the centre line of Doyle's Road to Short's Road, thence in a straight line to a point one mile west of Quigley's, thence in a straight line to the point where the North Eastern boundary of the District of Harbour Main Bell Island intersects Kenmount Road, thence along the centre line of Kenmount Road and Freshwater Road to Carter's Street, thence down the centre line of Carter's Street and Carter's Hill to Theatre Hill and thence along the centre line of said Theatre Hill to the centre line of Duckworth Street and thence easterly along the centre line of Duckworth Street to the top of Beck's Cove Hill, thence from the centre line of said Beck's Cove Hill to the shore of St. John's Harbour and thence following the shore of St. John's Harbour and, passing through the Narrows by the North of Forth Amherst and thence following the coastline Southerly to the Motion Head of Petty Harbour, the point of commencement.

BURIN-BURGEO shall consist of the Districts of Placentia West, Burin, Fortune Bay Hermitage, and Burgeo and La Poile and all the unorganized territory bounded on the North and West by the District of Grand Falls, on the South by the Districts of Burgeo and La Poile and Fortune Bay Hermitage, on the East by the Districts of Trinity North, Bonavista South and Bonavista North.

HUMBERST. GEORGE'S shall consist of the Districts of St. George's Port au Port, Humber, and St. Barbe, and all the unorganized territory bounded on the North by the District of Humber, on the East by the District of Grand Falls, on the South by the District of Burgeo and La Poile, and on the West by the District of St. George's Port au Port.

Footnotes to the Newfoundland Act

(1) Section 2 was repealed by the Statute Law (Repeals) Act 1969 (U.K.) (c. 52), Sch. Pt. VI. The original section read as follows:

Repeal of 24 & 25 Geo. 5, c. 2 2. In accordance with the preceding section the provisions of the Newfoundland Act, 1933, other than section three thereof (which relates to guarantee of certain securities of Newfoundland) shall be repealed as from the coming into force of the said Terms of Union.

(2) Term 17 has been repealed a number of times over the years. It was first repealed and replaced by the [Constitution Amendment Proclamation, 1987](#). The original Term 17 at the time of admission into Canada reads as follows:

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

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

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

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

It was subsequently repealed and replaced by the [Constitution Amendment Proclamation, 1997 \(Newfoundland Act\)](#). The Term as enacted by the [Constitution Amendment Proclamation, 1987](#) reads as follows:

17. (1) In lieu of section ninety-three of the Constitution Act, 1867, the following Term shall apply in respect of the Province of Newfoundland

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

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

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

(2) For the purposes of paragraph one of this Term, the Pentecostal Assemblies of Newfoundland have in Newfoundland all the same rights and privileges with respect to denominational schools or denominational colleges as any other class or classes of persons by law in Newfoundland at the date of Union, and the words "all such schools" in paragraph (a) of paragraph one of this Term and the words "all such colleges" in paragraph (b) of paragraph one of this Term include, respectively, the schools and the colleges of the Pentecostal Assemblies of Newfoundland."

It was subsequently repealed and replaced by the [Constitution Amendment Proclamation, 1998 \(Newfoundland Act\)](#). The Term as enacted by the [Constitution Amendment Proclamation, 1997 \(Newfoundland Act\)](#) reads as follows:

"17. In lieu of section ninety-three of the [Constitution Act, 1867](#), the following shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland, the Legislature shall have exclusive authority to make laws in relation to education but

(a) except as provided in paragraphs (b) and (c), schools established, maintained and operated with public funds shall be denominational schools, and any class of persons having rights under this Term as it read on January 1, 1995 shall continue to have the right to provide for religious education, activities and observances for the children of that class in those schools, and observances for the children of that class in those schools, and the group of classes that formed one integrated school system by agreement in 1969 may exercise the same rights under this Term as a single class of persons;

(b) subject to provincial legislation that is uniformly applicable to all schools specifying conditions for the establishment or continued operation of schools,

(i) any class of persons referred to in paragraph (a) shall have the right to have a publicly funded denominational school established, maintained and operated especially for that class, and

(i) the Legislature may approve the establishment, maintenance and operation of a publicly funded school, whether denominational or non-denominational;

(c) where a school is established, maintained and operated pursuant to subparagraph (b)(i), the class of persons referred to in that subparagraph shall continue to have the right to provide for religious education, activities and observances and to direct the teaching of aspects of curriculum affecting religious beliefs, student admission policy and the assignment and dismissal of teachers in that school;

(d) all schools referred to in paragraphs (a) and (b) shall receive their share of public funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature; and

(e) if the classes of persons having rights under this Term so desire, they shall have the right to elect in total not less than two thirds of the members of a school board, and any class so desiring shall have the right to elect the portion of that total that is proportionate to the population of that class in the area under the board's jurisdiction."

Constitution Amendment Proclamation, 1987

SI/88-11

By Her Excellency the Right Honourable Jeanne Sauv , Governor General and
Commander-in-Chief of Canada.

To All to Whom these Presents shall come.

Greeting:

JEANNE SAUV 

A Proclamation

Whereas section 43 of the Constitution Act, 1982 provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by the resolutions of the Senate and House of Commons and resolutions of the legislative assembly of each province to which the amendment applies;

And Whereas the Senate, the House of Commons and the House of Assembly of the Province of Newfoundland have, by resolution, authorized an amendment to the Constitution of Canada to be made by proclamation issued by the Governor General under the Great Seal of Canada.

And Whereas the Queen's Privy Council for Canada has advised me to issue this proclamation;

Now Know You that I do issue this proclamation amending the Constitution of Canada in accordance with the schedule hereto.

In Testimony Whereof I have caused these Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.

At Government House, in the City of Ottawa, this twenty-second day of December in the Year of Our Lord One Thousand Nine Hundred and Eighty-seven.

By Command,

HARVIE ANDRE RAY HNATYSHYN
Registrar General of Canada Attorney General of Canada

BRIAN MULRONEY
Prime Minister of Canada

SCHEDULE

Amendment to the Constitution of Canada

1. (1) Section 3 of the Newfoundland Act is renumbered as subsection 3(1).

(2) Section 3 of the said Act is further amended by adding thereto the following subsection:

References "(2) A reference to this Act, or a reference to the Terms of Union of Newfoundland with Canada set out in the Schedule to this Act, shall be deemed to include a reference to any amendments thereto."

2. (1) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is renumbered as Term 17(1).

(2) Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the said Act is further amended by adding thereto the following:

"(2) For the purposes of paragraph one of this Term, the Pentecostal Assemblies of Newfoundland have in Newfoundland all the same rights and privileges with respect to denominational schools or denominational colleges as any other class or classes of persons by law in Newfoundland at the date of Union, and the words "all such schools" in paragraph (a) of paragraph one of this Term and the words "all such colleges" in paragraph (b) of paragraph one of this Term include, respectively, the schools and the colleges of the Pentecostal Assemblies of Newfoundland."

Citation

3. This Amendment may be cited as the *Constitution Amendment, 1987*.

Constitution Amendment Proclamation, 1997

SI/97-55

[21st April 1997]

Elizabeth the Second, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories QUEEN, Head of the Commonwealth, Defender of the Faith.

By His Excellency the Right Honourable Roméo Leblanc, Governor General and Commander-in-Chief of Canada

To All to Whom these Presents shall come,

Greeting:

A Proclamation

Whereas section 43 of the [Constitution Act, 1982](#) provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

And whereas section 47 of the [Constitution Act, 1982](#) provides that an amendment to the Constitution of Canada may be made by proclamation under section 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at

any time after the expiration of that period, the House of Commons again adopts the resolution;

And whereas the House of Commons adopted a resolution on June 3, 1996, authorizing an amendment to the Constitution of Canada and, the Senate not having adopted such a resolution, the House of Commons again adopted the resolution on December 4, 1996;

And whereas Parliament was neither prorogued nor dissolved between June 3, 1996 and December 4, 1996;

And whereas the Legislative Assembly of the Province of Newfoundland adopted a resolution on October 31, 1995 authorizing an amendment to the Constitution of Canada;

And whereas the Queen's Privy Council for Canada has advised me to issue this proclamation;

Now know You that I do issue this proclamation amending the Constitution of Canada in accordance with the schedule hereto.

In Testimony Whereof I have caused these Letters to be made patent and the Great Seal of Canada to be hereunto affixed.

At Government House, in the City of Ottawa, this twenty-first day of April in the Year of Our Lord One Thousand Nine Hundred and Ninety-seven.

By Command,
JEAN CHRÉTIEN
Prime Minister of Canada
ALLAN ROCK
Attorney General of Canada
JOHN MANLEY
Registrar General of Canada

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

1. Term 17 of the Terms of Union of Newfoundland with Canada set out in the Schedule to the [Newfoundland Act](#) is repealed and the following substituted therefor:

"17. In lieu of section ninety-three of the [Constitution Act, 1867](#), the following shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland, the Legislature shall have exclusive authority to make laws in relation to education but

(a) except as provided in paragraphs (b) and (c), schools established, maintained and operated with public funds shall be denominational schools, and any class of persons having rights under this Term as it read on January 1, 1995 shall continue to have the right to provide for religious education, activities and observances for the children of that class in those schools, and observances for the children of that class in those schools, and the group of classes that formed one integrated school system by agreement in 1969 may exercise the same rights under this Term as a single class of persons;

(b) subject to provincial legislation that is uniformly applicable to all schools specifying conditions for the establishment or continued operation of schools,

(i) any class of persons referred to in paragraph (a) shall have the right to have a publicly funded denominational school established, maintained and operated especially for that class, and

(ii) the Legislature may approve the establishment, maintenance and operation of a publicly funded school, whether denominational or non-denominational;

(c) where a school is established, maintained and operated pursuant to subparagraph (b)(i), the class of persons referred to in that subparagraph shall continue to have the right to provide for religious education, activities and observances and to direct the teaching of aspects of curriculum affecting religious beliefs, student admission policy and the assignment and dismissal of teachers in that school;

(d) all schools referred to in paragraphs (a) and (b) shall receive their share of public funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature; and

(e) if the classes of persons having rights under this Term so desire, they shall have the right to elect in total not less than two thirds of the members of a school board, and any class so desiring shall have the right to elect the portion of that total that is proportionate to the population of that class in the area under the board's jurisdiction."

2. This Amendment may be cited as the *Constitution Amendment, 1997 (Newfoundland Act)*.