

inquiry whether under that general classification, including all those rights a case falling under subsection 1 may or may not be also included. It becomes simply an academic question.

Mr. COZENS-HARDY.—Yes. I was only using it to make my point clear.

The Lord CHANCELLOR.—Your case is that the only portion of the section which is effective is the first, but what is the meaning of saying “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” as distinguished from the decision of the Governor General in Council on any appeal?

Mr. COZENS-HARDY.—It may not of course be a law. It may be some administrative act of some administrative body.

That, my Lords, is what I desire to say on the first part of the case. Now I come to another part of the case to which I am not sure that my learned friends on the other side have quite so fully directed your Lordships’ attention. Even if we are wrong and your Lordships should hold that an appeal does lie from a post-union statute it only lies of course if it affects any right or privilege of the Protestant or Roman Catholic minority in relation to education. On that it is necessary to ask your Lordships’ attention to the legislation from 1870 up to and including the Act of 1890, because it is only that legislation which is stated to be interfered with or prejudicially affected by the Act of 1890.

Lord WATSON.—But how can you apply the words “provincial authority” if the rights and privileges are limited to those specified in subsection 1?

Mr. COZENS-HARDY.—There might be many administrative acts interfering with them.

Lord SHAND.—Then may I ask with what object you are going to refer to the legislation? Is it for the purpose of showing that there is no privilege interfered with?

Mr. COZENS-HARDY.—Yes; there is no right or privilege of the Protestant or Roman Catholic minority of the Queen’s subjects in relation to education which has been interfered with. Your Lordships will observe that these words are very peculiar. It is not “any right or privilege in the matter of education,” it is only “any right or privilege of the Protestant or Roman Catholic minority of the Queen’s subjects in relation to education;” that is to say, it must be some right or privilege which a minority, as such, has under the acts as against a majority in a particular locality.

The Lord CHANCELLOR.—Not necessarily.

Mr. COZENS-HARDY.—I mean it is not a right or privilege which any one has, it must be some right or privilege which persons in the character of a minority have. The language is very peculiar.

The Lord CHANCELLOR.—Is not light thrown upon that by what we are certainly entitled to look at—subsection 3 of section 93?

Mr. COZENS-HARDY.—They are identical words there.

The Lord CHANCELLOR.—Yes, but the identical words there are preceded by certain words the insertion of which of course was natural, having regard to the provinces with which they were dealing, and the insertion of which was necessary in this section. But seeing that they are identical words, might not one look at the preliminary part of subsection 3 of section 93 to see what their object was?

Mr. COZENS-HARDY.—Yes, except this, of course—your Lordship rather anticipated my observation—you do not find those words at the beginning of sub-section 2.

The Lord CHANCELLOR.—You of course would not, because section 93 was dealing with the provinces then in or that might thereafter come in, to which those words would be applicable; section 22 of the Act of 1870 was dealing with a state of things in which they knew exactly what the provinces were. You do not need the general words applicable to an existing or future state of things in one or other of several provinces.

Mr. COZENS-HARDY.—No. It is legitimate, no doubt, to look at sub-section 3 of section 93, but still the fact remains that your Lordships must find as a fact, not merely that rights and privileges given to the whole community come under the Act, but it must be the rights and privileges of the Protestant minority or the Roman Catholic minority, as the case may be, in different parts of Manitoba.