

## Manitoba School Case.

Mr. HALDANE.—Yes, my Lord.

Lord SHAND.—Very well, assume that, but in providing equally for all thereby resulted from that mode of legislation privileges or rights in the minority, and you deprive it of that—surely that is a benefit?

Mr. HALDANE.—A special privilege.

Lord SHAND.—It resulted in a benefit.

Lord WATSON.—It put them all on the same footing. The non-sectarian education party did not regard it as a right or privilege. They regarded it as an infliction to be got rid of by statute.

Mr. HALDANE.—They did, and they had their remedy because they were not bound to send their children to schools in the district in which they lived; they might send them to any other schools.

Lord WATSON.—We cannot go into the considerations which entered into their minds.

Mr. HALDANE.—I am suggesting that there is a contrast between the words of subsection 2 and the words of the section to which the Lord Chancellor has referred, under which there is a preserving of the privileges conferred by law or custom on any class. In subsection 2 it is an act or decision.

Lord WATSON.—At the time when this new legislation of 1890 was passed the persons who valued denominational education were the minority. They regarded it as a privilege, and they held to it as a privilege, whilst others were seeking to upset it. Nobody else got a privilege. It was a privilege which they had at that date. It resulted to them from their own Act in the former time whilst they were the majority. Does that make any difference? That is the short point. You must look to the origin of it. You never could have a privilege created in that view of it by intermediate legislation, because that legislation must be the act presumably of the majority.

Mr. HALDANE.—You must see what subsection 2 means. Obviously it points to something different from what is in subsection 1.

Lord WATSON.—You must look at the two, because that would rather turn into ridicule subsection 3 of section 93.

Mr. HALDANE.—Subsection 3 of section 93 seems to point to something different. It seems to limit the right of appeal to the case where there is actually existing a system of separate or dissentient schools which no doubt might be oppressed by the act of the majority, and might have their rights and privileges interfered with, and in those cases, and in those cases only, they are to have a right of appeal. But going back to subsection 2 as it is in section 22, it is clear that something specific is meant by “right or privilege of the minority,” and I read and I submit that the meaning of it is, that there is not to be anything done which can affect the position of a minority—a minority in legislation who are at the mercy of the majority. Nothing is to be done which can affect any right or privilege which they had in relation to education. Now, what right or privilege did these people have? Standing by itself, it is clear that the Act of 1890 is no infringement of their rights and privileges. Standing by itself, I say—that your Lordships have decided in Barrett's case. That is clear ground to start with.

Lord SHAND.—I do not understand that. Standing by itself compared with the state of matters at the time of the union, there is no privilege; but standing by itself in comparison with the state of affairs afterwards, there is a privilege.

Mr. HALDANE.—I have not made myself clear. I meant standing apart from any other legislation.

Lord SHAND.—Nobody had any privilege before, of course.

Mr. HALDANE.—Unless there had been some statutory privilege conferred, it must have been so.

Lord WATSON.—Having no intermediate statutes there could not be any privilege. I do not know whether the words “or practice” may have raised any privilege. I do not know, but I think presumably that would not arise.

Mr. HALDANE.—The simple question is whether there is a right or privilege which has been conferred on persons who have become the minority under any intermediate statute. Now, my submission to your Lordships is that such rights and privileges as the minority have within the meaning of the section—