Mr. COZENS-HARDY.—This Board has decided of course that the Act of 1890 was not wrongly done.

The LORD CHANCELLOR.—They have decided that it is *intra vires*. That is not saying that it is not wrongly done. I think there has been some confusion of view in some of the judgments below. It is said that this board has decided that the Act was *intra vires*, and that therefore it follows that they cannot infringe the provisions of subsection 2, but that of course is the whole question.

Mr. COZENS-HARDY.—What I desire to urge is, not that the Barrett case decided this. I do not think it did.

The Lord CHANCELLOR.—They have said that it did not infringe subsection 1 because it did not affect "any right or privilege with respect to denominational schools which any class of persons have by law or practice in the province at the union." They have not said that it did not affect the rights or privileges of a Roman Catholic minority in relation to education.

Mr. COZENS-HARDY.—But what are the provisions of this section which can be applicable to a case like the present? There is no "remedial law" required in dealing with a statute of the Manitoba legislature which is *intra vires*. There is no "remedial law" necessary.

The Lord CHANCELLOR.—I confess the words "remedial law" point, to my mind, to legislation and not to merely annulling something which the legislature has said shall be annulled. You cannot call the mere execution of the section a "remedial law." And they are not to go beyond what is necessary.

Lord SHAND.—And it is "in every such case and as far only as the circumstances of each case require."

The Lord CHANCELLOR.—Yes. Now, it does not require at all remedial legislation to annul an *ultra vires* law.

Mr. COZENS-HARDY.—Except that it is the mode of getting rid of an Act.

Lord WATSON.—You suggest this would be a mere declaratory Act, declaring that the original law was wrong.

Mr. COZENS-HARDY.—Yes.

The Lord CHANCELLOR.—Is that not rather straining the words, "as far as the circumstances of each case require?" In that case "the circumstances of the case" would always "require" precisely the same thing—simply to annul the law.

Mr. COZENS-HARDY.—The circumstances might not require the annulment of the whole law. They might require a declaration of the invalidity of a part of the law.

The Lord CHANCELLOR.—But in each case it would be annulling a law; there would be no variation from case to case.

Mr. COZENS-HARDY.—No, it would be declaring that the law was either wholly or, as the circumstances of the case might require, partially void.

The Lord CHANCELLOR.—If that is all that was meant it would have been very simple to have put it in very different language. That is not a conclusive argument I quite agree, but the language does not seem to be very appropriate language. You say subsection 3 tends to show that subsection 2 must mean something less than at first sight it says. So far from that, the language of subsection 3 seems to me rather to point in the contrary direction.

Mr. COZENS-HARDY.—The way I endeavour to meet the Lord Chancellor's observation in this. I say that section 22 anxiously provides that the Manitoba legislature is exclusively to have the power within certain limits, but that it is not intended to confer any general legislative power upon the Canadian Parliament.

Lord WATSON.—It is just the same as if it had been "subject to the exceptions hereinafter enacted, the provincial legislature shall have exclusive power."

Lord SHAND.—But the exception is that they are to remedy anything as to which the Manitoba legislature goes wrong.

Mr. COZENS-HARDY.—Exactly.

The Lord CHANCELLOR.—Is it not conceivable legislation to say "We will trust to you the provincial legislature the power of dealing with education, but this is a question upon which there is known to be a keen feeling and a difference of opinion, and you are