

Manitoba School Case.

Mr. HALDANE.—It is so difficult to answer these thing in abstract terms.

Lord SHAND.—But it is the very question which is raised—whether you are not in fact giving a privilege to a manority.

Mr. HALDANE.—I will put a case, my Lord. Supposing there was an Act which said—

Lord WATSON.—Surely a privilege may be a privilege without being appreciated as such.

Lord MACNAGHTEN.—It is not a privilege to a man who does not consider it a privilege, but it is a privilege to a man who does consider it a privilege.

Mr. HALDANE.—I think, my Lord, something more than that is involved. Suppose that the state says “we are going to rate for education.” Well, one section of the electorate, or one section of the population may consider that a privilege.

Lord MACNAGHTEN.—You say that there is no privilege in one man being obliged to put his hand into his pocket to support his particular school.

Mr. HALDANE.—The other man never putting his hand into his pocket at all. My submission is that that was not a right or privilege conferred upon the minority which was contemplated by the Act. I agree that what was meant was to protect the minority against the legislative majority—

Lord WATSON.—They came to require the protection, it appears to me, being in the minority.

Mr. HALDANE.—Yes, being in the minority.

Lord WATSON.—I do not see how that bears on the question. Surely it is a privilege to have denominational schools established if you are denominational. I can no more understand that than this: That if a nobleman or merchant prince admits the whole of the public to his domain for one day in the week, that is not a privilege, but if he keeps out the public and lets in half a dozen of them, that is a privilege.

Mr. HALDANE.—Yes, something that is given to them exclusively as a class is a privilege, and the class we want in this case is the minority.

Lord WATSON.—Privilege is very often used as a mere exceptional privilege, but that is not the meaning.

Mr. HALDANE.—It is not every kind of privilege. It is the privilege of the minority.

Lord WATSON.—I quite concede that.

Mr. HALDANE.—All that I am submitting to your Lordships is that, to take Lord Macnaghten's case, if we were dealing with the question of whether it was a right or privilege of the minority to have rates levied upon the community as a whole for the purposes of education, however great a privilege the persons who were Catholics and in the minority and were going to be overruled by the majority might consider that, that would not be a right or privilege of the minority within the meaning of subsection 2 of this Act. That is my proposition.

The Lord CHANCELLOR.—Certainly, if we are to allow the 1867 Act to throw any light upon it. If you look at the first subsection of section 93, it can hardly be doubted that there the rights and privileges intended to be protected were the rights and privileges of having either separate schools or denominational schools, as distinguished from a general system which was not in accordance with their views.

Mr. HALDANE.—Your Lordship refers to that system of separate schools?

The Lord CHANCELLOR.—Yes.

Mr. HALDANE.—That is in sub-section 3.

The Lord CHANCELLOR.—No, I mean if you look at subsection 1. You are looking at subsections 1, 2 and 3 together. If you look at subsection 1 you can hardly dispute that as regards Quebec and Ontario, one of the objects, at all events of subsection 1, was to preserve their rights to the then existing system of denominational education.

Mr. HALDANE.—Certainly, because those were rights they had by law.

The Lord CHANCELLOR.—Yes, they were rights they had by law, but what was the nature of the right? It was only the right to get assistance from the state funds for their separate schools as distinguished from the schools in consonance with the views of the majority: Protestants in the one case and Catholics in the other.