

Manitoba School Case.

Mr. HALDANE.—To give effect to a decision of the Governor General on appeal.

Lord MACNAGHTEN.—Which has been set at naught by the provincial legislature.

Mr. HALDANE.—Be it so, but they do not come in for the purpose of giving the Dominion legislature seisin of the educational question.

The Lord CHANCELLOR.—They give them seisin of the educational question in so far as it is necessary to prevent what are called oppressions of the minority by making remedial laws.

Mr. HALDANE.—To the extent of making them a sheriffs' officer to enforce the Governor General's decision.

The Lord CHANCELLOR.—No, it is by legislation.

Mr. HALDANE.—I quite agree, but it was only by legislation that this could be enforced if it was the appropriate remedy. Look at it. "An appeal shall lie to the Governor General in Council from any Act or decision." That is the first thing. Then "in case 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 is not made."

The Lord CHANCELLOR.—That I take it to be a provincial law which prevents the affection of a right or privilege of the Protestant or Roman Catholic minority in relation to education. That is the law he submits to them they ought to make. Then if they do not make it, such a law can be made by the Dominion Parliament.

Mr. HALDANE.—Is not that another way of providing an appeal on some law that has been passed by the provincial authority to prevent a right or privilege being affected, that cannot be affected till there has been provincial law.

The Lord CHANCELLOR.—No ; you might leave the provincial law existing and yet you might add to it an enactment that might prevent the rights of the minority being affected.

Mr. HALDANE.—My answer to that is, that it is "only in so far as the circumstances of each case may require." It is strictly limited—first there is what I have read and then, "or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section." It looks as if all that was intended was to give the Dominion Parliament, not general seisin of the educational question, but power to enforce the decision of the Governor General.

The Lord CHANCELLOR.—It is a little beyond that. It is the execution of this section. That depends on what the section was intended to give. If you are right that the section was intended to give no more than is given by subsection 1, that would be something less. If, on the other hand, it extends to privileges and rights beyond that, that would be something more ; but whatever it was intended to give, the provincial legislature is to be invited in the first place to pass such legislation as will protect all the rights intended to be protected, and if they will not do it, then it is left to the Dominion Parliament to devise any remedial law they please that will have that effect.

Lord SHAND.—Do I understand that you say there is an appeal both to the courts of law and from those courts to this board, and an appeal to the Governor General in Council at the same time with reference to any infringement of subsection 1 ?

Mr. HALDANE.—Yes.

Lord SHAND.—Supposing this board were of opinion and gave the opinion and the decision that the law did not prejudicially affect any rights or privileges with regard to the denominational schools, and the Governor General a different opinion, what then ?

Mr. HALDANE.—The Governor General would be bound by the opinion of this board. The Governor is only a servant of the Queen.

Lord SHAND.—Why so ?

Mr. HALDANE.—Because the Governor is ultimately only a servant of the Queen.

The Lord CHANCELLOR.—I do not know ; because it says such law as "seems to the Governor General in Council requisite." It has been generally held that does not