

The Lord CHANCELLOR.—Is it so extraordinary when you remember that this was an arrangement made as one of the terms on which the union was to be effected? It would be shutting one's eyes to the most obvious facts which were exhibited on the face of the British North America Act itself, if one were not to see that one of the obstacles to this federation scheme was the fear of educational legislation in the separate or distinct provinces which might affect the position of those who desired a denominational education. That runs through all the provisions of section 93, and it appears to me to be on the face of section 22 also. Therefore it is not extraordinary in that case to find limitations and safeguards and superior legislative power given to the Dominion Parliament, which represents the country as a whole. It does not strike me as extraordinary.

Mr. HALDANE.—The general proposition, I agree, is not so anomalous, but it is the way that it is carried out. That is if it was meant to be done, my submission is, it would have been done in some specific form.

The Lord CHANCELLOR.—Is it carried out in such an anomalous way? What it does is this. It gives the ultimate remedy in this form by legislation by the Dominion Parliament, which otherwise has no power to legislate on any such matter in the province. That is the ultimate remedy. It interposes between the action of the Dominion Parliament and the provincial legislature, the Governor, and his consideration of the matter, and his decision, and therefore it is a check upon the interference by the Dominion Parliament in its legislative capacity with the province as regards education.

Lord MACNAGHTEN.—And the Dominion Parliament cannot interfere, I suppose, unless it is asked to do so, and they are not bound even then.

Mr. HALDANE.—You could not bind them. Nobody ever heard of binding a legislative body. If it had been intended to adopt a scheme of that kind I could have understood it, but that is not the scheme.

The Lord CHANCELLOR.—That is just the question. I thought you were saying that that could not be the construction of this section, because that would be such an extraordinary and anomalous scheme. It was to that my observation was directed. If it is not the scheme, there is an end of it.

Lord WATSON.—Were those provisions really a matter of arrangement between the Dominion Parliament and the province? The provisions of the British North America Act do not include Manitoba, but it was admitted on no other terms. It is section 146, "It shall be lawful for the Queen, by and with the advice," and so on, "on addresses from the houses of the Parliament of Canada, and from the houses of the respective legislatures of the colonies or provinces of Newfoundland and Prince Edward Island and British Columbia," which have all been admitted, and then on other addresses respecting Rupert's Land and the North-western Territory to admit, and so on, "all or each of them into the union on such terms and conditions in each case as are in the addresses expressed, and as the Queen thinks fit to approve, subject to the provisions of this Act." It is a voluntary arrangement made, and the parties to the arrangement are on the one hand the Dominion Parliament, and on the other hand the provinces seeking admission. This Act embodies the terms on which Manitoba was admitted.

Mr. HALDANE.—If we were dealing with a question that was peculiar to Manitoba there would be more force in your Lordship's observation than I venture to submit there is, but if you take what we are dealing with here in subsection 3 of the Manitoba Act and subsection 4 of section 93 of the British North America Act, which are the relevant sections for the purpose of giving an answer to the question the Lord Chancellor put, they are identical in both cases. They are meant to be of general application, and they are identical clauses, and if it were intended to carry out the general proposition to which the Lord Chancellor has referred they would have been framed differently.

Lord MACNAGHTEN.—I do not understand how you would have framed them differently. When you once see the object they are framed very well and are not unreasonable. They leave as much room for consideration and negotiation before the Governor General steps in and requests an Act of the Dominion Parliament *in invitum* of the provincial legislature as could be.

Mr. HALDANE.—What is it the Dominion Parliament comes in for?

Lord MACNAGHTEN.—As the last resort.