

minority. The words "separate or dissentient" indicate it. "Thereafter established" appears to apply to separate or dissentient schools, namely to schools of the minority. Does not that indicate an intention where such schools are established to give an appeal against any infringement of rights in relation to such schools?

Mr. HALDANE.—I am not entitled to put a question, but if I were I would ask why does not "right or privilege" in that 3rd subsection mean right or privilege for the time being, leaving the operation of subsection 1 uncontrolled? That at any rate is my submission on the construction, but I must come back to that in dealing with my first point.

Now, my Lords, we have to construe provisions which are admittedly and on the face of them difficult to construe, and ambiguous, and for that purpose it seems to me important we should bear in mind what the scheme of the British North America Act was, because obviously the Manitoba Act, which as your Lordships know by the statute of the subsequent year was made an Imperial Act, was passed on the lines of the British North America Act. The British North America Act had a perfectly distinct plan. That plan is expressed in the preamble to the act—to establish a federal constitution in Canada called the Dominion, including in the term the "Dominion" the aggregate of the provincial legislatures as well as the Dominion Parliament itself, and to provide for the federal distribution of the executive power as well as of the legislative power. The scheme of the act is not to make the Dominion Parliament in any sense sovereign or supreme over the provincial legislatures. The scheme of the act is to distribute. "Federally" is an inaccurate and inapt term, and how it came to be used in this statute it is difficult to conceive; but what really took place was this: The imperial legislature intended to part with certain functions which I suppose theoretically are as much its functions to-day as they were then, but which were delegated with the indication that the imperial legislature did not intend to interfere in Canadian matters. They were delegated to the Dominion Parliament on the one hand and to the provincial legislatures on the other hand.

Lord WATSON.—The intention was obviously to distribute the whole complement of legislative power between the two legislatures.

Mr. HALDANE.—Yes; there is nothing reserved in terms to the Imperial Parliament, and it has been only in rare cases in some matters relating to copyright and merchant shipping and other international matters, that there has been legislation which would affect the subjects which were so distributed or delegated.

Now, my Lords, the scheme of the distribution was not to make one Parliament supreme over the other in matters which were delegated. The scheme of the distribution was distribution proper by creating co-ordinate legislatures; the provincial legislature exercising such legislative functions as were, properly speaking, of a provincial nature and the Dominion Parliament exercising the other functions. There are certain cases, two occur to me at this moment, in which there was a slight departure from this, but these two were perfectly specific. The case of agriculture is mentioned in section 95. The provincial legislature may make laws as well relating to agriculture as to immigration. But that, however, is subject to this, that the Dominion Parliament if afterwards it should think fit to interfere may take that subject out of the hands of the provincial legislature. Then there is another instance, which is a little different. You will remember that some of your Lordships sat and heard an appeal in a case that came before this board last year about bankruptcy and insolvency.

Lord WATSON.—There have been a great number of cases. There are a great number on the articles in the specification in the clauses 91 and 92 which interlace.

Lord SHAND.—Section 95 is subject to this qualification, "And any law of the legislature of a province relating to agriculture or to immigration shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament of Canada." Parliament seems to be the supreme authority there.

Mr. HALDANE.—When it is supreme it is said it is to be supreme, and the question of agriculture is so far as I am aware the only one in the Act in which there is a provision analogous to that. When it is intended that the Dominion shall have power to take matters out of the hands of the provinces, as it was in that case, it was so said. With