

Manitoba School Case.

Mr. HALDANE.—It does.

Lord SHAND.—There is one Act which embraces the whole of the previous Acts together—the Act of 1881.

Mr. HALDANE.—Yes; really nothing turns on anything except the Act of 1881, which, as your Lordship knows, repeals the Act of 1871. Now, just let us turn for moment to that. First of all I should like to look at the Act of 1871 for a moment because it contains terms and expressions which recur again in the Act of 1881.

Lord SHAND.—Shall we not get them in the Act of 1881?

Mr. HALDANE.—I think it is desirable to glance at the Act of 1871.

The Lord CHANCELLOR.—Where is it to be found?

Mr. HALDANE.—I have it in a separately printed book at page 21. The Act of 1871 which is now repealed, but which is the foundation of the code of legislation contained in the Acts which began in 1881, "The Manitoba School Act," and the amending Acts, first of all begins by establishing a board of education which is to consist of not less than 10 or more than 14 persons, half are to be Protestants and the other half are to be Catholics. Then one of the Protestant members is to be superintendent, and one of the Catholic members is to be superintendent of the schools of their respective denominations. Then the next important provision is the provision of a chairman. The duty of the board is first of all (and this is the board as a whole) to make regulations as they think fit for the general organization of the common schools, then to select books and so on, but not dealing with religion or morals. Then there is a subdivision of school districts, and then we come to section 10, which I say does confer rights and privileges upon the minority in what is really the shape of exemptions from the general provisions of the Act. Each section of the board as a whole (the board as a whole being for the general regulation) is to select teachers; this is a denominational system, and the selecting of the teachers is very important. It is to prescribe the books; this is a denominational system where religious books may be used, and it is very important that the Catholics should have the selection of their own books.

The Lord CHANCELLOR.—Why do you say it is an exemption? It is an express provision. It is an enabling or an empowering provision. It is not an exemption from anything. Each half gets exactly the same thing. It is not a thing that the whole gets from which any portion is exempted, but the same thing is given to two halves. Of which is it an exemption?

Mr. HALDANE.—The system of denominational education is given to the board as a whole, the selection of the books and the selection of the teachers is given to the various sections.

The Lord CHANCELLOR.—But that is not an exemption from anything.

Mr. HALDANE.—No, but what the right or privilege of the minority is—

Lord WATSON.—Your contention is that the right or privilege must be conferred in the form of an exemption.

Mr. HALDANE.—Yes, I say it comes to that.

Lord WATSON.—But that anything given in the form of a right or privilege common at the time it is given to the whole of the community of Manitoba, is not a right or privilege such as is contemplated in the 3rd subsection.

Mr. HALDANE.—That is my proposition.

Lord WATSON.—Unquestionably it does not seem to admit of doubt that before 1871 there was no denominational teaching, and there were no privileges or rights whatever until the union. There were none before the union, or at the union, but immediately after the union, from 1871 and downwards to the Act of 1890, there was repeated legislation, and during the whole of that time the legislation made state education denominational.

Mr. HALDANE.—Yes, that is so.

Lord WATSON.—I think it hardly admits of doubt that the privilege which was conferred was not an exceptional privilege. It was given all round.

Mr. HALDANE.—It was given all round. That is my proposition, that the system of denominational education—