

The Lord CHANCELLOR.—No, your proposition is not that.

Mr. HALDANE.—Still—matter of appeal to your Lordships here. Let me point out this. It might have been some man in humble circumstances sued for his school fees or school rate that he had not paid up, and he would not be likely to incur the expense of coming here. In that case it might well be that it was not competent to the Catholic minority as distinguished from the individual party to raise the question. It might well be in the contemplation of those who framed the Act that it was desirable to give to the Catholic minority an appeal to another tribunal, that tribunal being the Governor General, who as we know is not only able to get the assistance of his council and now of the Supreme Court, but even if necessary to get the advice of this Board. It may well be that that was the intention of those who framed those provisions, and I suggest that that was so, that when you come to these questions involving the rights of minorities, it was intended to constitute the Governor General a special tribunal to deal with them, dealing it may be to a limited extent with matters of policy, but probably dealing with these questions which indeed were the only questions which, in the first instance were submitted to him, whether the right or privilege of a minority had been interfered with.

Now, observe how consistently that construction works out. Taking the first section it exhaustively defines the competence of the provincial legislature. The second subsection deals with all sorts of acts. It would deal primarily with executive and administrative acts.

The Lord CHANCELLOR.—Not primarily, because the other is mentioned first.

Mr. HALDANE.—I will tell your Lordship why I say primarily. Because in subsection 3 of section 93 of the British North America Act it seems, whatever may be the scope of the words they have used, that in using the words "Act or decision of the provincial authority" the legislature was contemplating executive and administrative authority.

The Lord CHANCELLOR.—When they come to deal with Manitoba, if that is the principle, they put the legislative in the fore front to show there is no mistake about it, and that they are thinking of that first.

Mr. HALDANE.—Quite true. But they take the words "Act or decision," which are the words they have selected in contra-distinction to "law" in the beginning of the section from the British North America Act, and they make use of them in a sense still contra-distinguished from "law," which I suggest shows they primarily had in view executive and administrative acts.

Lord SHAND.—What administrative or executive act do you suggest as an act of the legislature?

Mr. HALDANE.—It may be that the legislature may pass a resolution.

The Lord CHANCELLOR.—The legislature consists of the Lieutenant Governor and the House, and therefore no resolution would be an Act of the legislature.

Mr. HALDANE.—Supposing that was so, and supposing that the legislature meant nothing short of the three component elements?

Mr. BLAKE.—Two.

Mr. HALDANE.—I thought there was an upper chamber.

Mr. BLAKE.—That was abolished many years ago. I did it.

Mr. HALDANE.—I only knew it from what it was under the original statutes.

Mr. BLAKE.—There was an upper house of seven; a nominated house.

Mr. HALDANE.—My friend, Mr. Blake, amongst the interesting things he told us, did not tell us how it was abolished. I was under the impression that at the time when the legislature of Manitoba was constituted there were two houses.

The Lord CHANCELLOR.—There were two at this time, in 1870.

Mr. HALDANE.—I think there were.

Mr. BLAKE.—Yes; it was so till it was abolished.

The Lord CHANCELLOR.—Then the legislature here meant the Lieutenant Governor and the two houses.

Mr. BLAKE.—That is quite true.

Mr. HALDANE.—That is so. Assume the legislature meant the complete legislature, and that that term was not wide enough to cover the resolution of one House