

tricts in which there was a Protestant minority, and certain other districts where there was a Catholic minority. If that be the view, I quite admit that there may be provisions in those intermediate statutes—

Lord WATSON.—They are people who, if they had been a majority in the state instead of a minority, would have taken care that that legislation would not have become law.

Mr. COZENS-HARDY.—Then, my Lords, I have put to your Lordships such observations as occur to me.

Lord SHAND.—Has it any different meaning than this—that if in any district a minority, Protestants or Catholics, are injuriously affected—that raises a question?

Mr. COZENS-HARDY.—That is the view I desire to put before your Lordships.

The Lord CHANCELLOR.—That may be, but it is not necessary to determine that. It may be it includes local minorities, but it is perhaps not necessary to determine that. It includes also the total population. I do not say it might not be applicable to local minorities, but local minorities if on the poll a majority have protection in their own hands. It is not for the Governor or the Dominion Parliament to interfere and set it aside. It may be the wishes of the majority of Catholics.

Lord WATSON.—One should not expect any person to admit he had the matter in his own hands. He could not establish, no matter how much he was in the majority anything but a non-sectarian school.

Mr. COZENS-HARDY.—He could not. He can open as many denominational schools as he likes.

The Lord CHANCELLOR.—But he would have to pay his quota to the other schools.

Lord WATSON.—He cannot create a state-aided school.

Mr. COZENS-HARDY.—No. State aid can only be given to such public schools as are contemplated by the Act.

Lord WATSON.—He would have to contribute to the state-aided schools as well.

Mr. COZENS-HARDY.—My Lords, these are the grounds on which, on behalf of the legislature of Manitoba, I submit to your Lordships that the Supreme Court of Canada were right, and that the powers of the legislature cannot be interfered with in a matter which is *intra vires* of the legislature by an appeal to the Governor General of Canada, who apparently claims to exercise his powers not in his judicial character but from political considerations, which may be, and probably must be, foreign to those which would have weight in Manitoba.

Mr. HALDANE.—My Lords, if I had been following my learned friend, Mr. Cozens-Hardy, in an ordinary appeal, I should not have presumed to add much to what he has said, but the magnitude of the case and, I may add, its difficulty makes me desire again to touch upon some of the grounds which he has already gone over. I promise your Lordships I will not occupy an undue or long period of your time.

The Lord CHANCELLOR.—The case is such, and its difficulty such, that no excuse need be made for any assistance you can render.

Mr. HALDANE.—I am sure I shall have your Lordships' indulgence. Now, my Lords, there are two points which my learned friend has stated at the opening of his address, and on those two points not only am I bound to concur with him but I do most sincerely concur with him. We are here to argue two matters of substance, and two matters of substance only. The *first* is whether subsection 1 does not exhaustively define the limits which are set to the legislative powers of the provincial legislature and whether the provisions of subsection 2 are not merely provisions expressed in general terms, covering, it may be, a wider field, but which are to be read as consistent with, and not as cutting down the language of subsection 1. That is the first point. The *second* is whether the conditions of an appeal to the Governor General have actually arisen by reason of the fact that a right or privilege of the minority within the meaning of subsection 2 has been affected?

My Lords, there was a further question which has been much discussed in the course of this case, and that is whether we have anything to do on this appeal with the British North America Act, 1867, or whether the question was exclusively governed by section 22 of the Manitoba Act. To my mind that is a very important question.