

## Manitoba School Case.

The Lord CHANCELLOR.—Would they have been without redress in such a case?

Mr. HALDANE.—I do not see how they could have had redress.

The Lord CHANCELLOR.—Your objection must go that length.

Mr. HALDANE.—Yes, I do not think they could, and apparently so they thought, because although they did not exclude Roman Catholics, they put them in a minority.

The Lord CHANCELLOR.—But the general board still had powers which they might have been quite content to leave to a board of Protestants alone. You say the sections had less power.

Mr. BLAKE.—The board's powers were reduced; the section powers were increased.

Mr. HALDANE.—I do not think they were. My friend suggested something of that sort in the course of the argument, but on looking at the schedule what I found was this, that while the board might regulate the general organisation of common schools, and so on, the section was to have under its control the management of the schools, and the section is to arrange for the examination of the teaching and the selection of the books and maps and so on. There is that difference, and then there was given a reference to religion and morals. It is quite true that the board on that occasion did not have the selection of what I may call the non-sectarian books. There was that difference, but the argument must go to this, that that Act was *ultra vires* and would have been *ultra vires* if it had gone further.

The Lord CHANCELLOR.—And not only that, but that there was to be no appeal.

Mr. HALDANE.—That it was within the uncontrolled competence of the provincial legislation. Well, my Lords, the Act of 1881 went a very long way, because it established compulsory education. It did not merely establish free education. It established rate aided education, it established education which was aided by grants, and it established a provision for compulsory education. The whole of that machinery was swept away by the Act of 1890, and under the Act of 1890 what was substituted was a system which was purely undenominational, as your Lordships have held, which was not compulsory, and which consists of free education out of the rates and grants out of the funds of the province of Manitoba. I say that, standing by itself, was within the competence of the provincial legislature, and I say that there was nothing that interfered with the provincial legislature passing it by reason of the legislation which had taken place intermediately, because that legislation was legislation, as I venture to submit on its construction, in the interests of the community as a whole, and because the rights and privileges which a class of persons who afterwards became a minority had, were rights and privileges which were in the nature of privileges or rights relatively only to the existence of the general system, and the system not being a system which was given in the interests of any class or section of the community which had come to be the possession of any minority *quâ* minority, was a system which could competently be swept away.

My Lords, that seems to me to exhaust all that is to be said upon the subject of this second point which I have spoken of. If your Lordships should take any other view it comes to this, that there is scarcely any educational system of a denominational character which the Manitoba legislature has set up that it could competently alter without interference at every turn.

Lord SHAND.—No, it must be something that may affect one body of religionists, Catholics or Protestants.

Mr. HALDANE.—If your Lordships were to take this very wide construction—

The Lord CHANCELLOR.—It would not be inconsistent with a system such as works in Ontario, where you have an undenominational system, as I understand, for the majority of Protestants coupled with a separate school system for the Catholics.

Mr. HALDANE.—My Lord, is that certainly so? Under this Act of 1881, amongst other things which happened, the grant from the taxes, not from the rates, which used before to be distributed evenly between the Catholics and Protestants, was distributed unevenly in proportion to the children. Well, the result of that, of course, is that the Catholics have to pay more in other ways in order to make up the *quantum* of money which was necessary for their education. There you have, if you will take what I will call the wider construction against which I am contending, an infringement of a right