

Manitoba School Case.

such an infringement and affection of the rights and privileges conferred by the preceding Acts as to give ground for his interference under section 22. Now, my Lords, upon that it is important to observe—I shall not have occasion to trouble your Lordships with a detailed argument upon it—but it is important to observe what the provisions of the previous statutes really are in order to see whether they constitute a right or privilege of the minority, and as I submit to your Lordships, of the minority as such. It is not enough, for instance, that there is a right to rate for education because that would be a right which was given to the community as a whole. The question is whether there is a right or privilege given to the minority as such, and what I suggest to your Lordships as the true interpretation of the rights and privileges conferred by these previous statutes is that they are rights and privileges of exemption from liability which is created by these statutes upon the whole community; that, in other words, there is a system which is passed for the whole community, and that dependent upon that system there is a right or privilege of exemption which has meaning, validity and effect so long, and so long only, as the system continues in effect. The system may be taken away, if the argument is well founded, because the system in itself was not an infringement of a right or privilege, but if the system disappears then the ground for the exemption disappears, and accordingly if the legislature abolishes the system no question arises as to the right or privilege which had only this contingent and conditional existence.

Lord WATSON.—The right given to the whole community by a statute of this year you say does not confer any right or privilege when it is taken away by an Act next year—it does not give any right or privilege to those who under next year's statute become a dissentient minority. Is that the proposition?

Mr. HALDANE.—Yes, but I should like to state it a little more fully.

The Lord CHANCELLOR.—Your point is that those statutes between 1871 and 1890 do not give any right or privilege at all to the minority in relation to education?

Mr. HALDANE.—That is it. They do give what I have called contingent and conditional rights and privileges of exemption from the system which had been established.

Lord WATSON.—The privilege was to be given in the shape of exemption from the general rule as to education.

Mr. HALDANE.—Yes.

The Lord CHANCELLOR.—But had not they power to tax in the first place; and in the next place to tax all with the exception of those who were contributing to some other schools not of their faith for the support of the schools?

Mr. HALDANE.—They had power to tax, and they did tax, but the contributions of those of a particular faith were allowed to go under that system to the support of their particular schools.

The Lord CHANCELLOR.—Is not the power to tax for the support of schools where that kind of education is given which is in accordance with the view of the minority, a right or privilege of the minority?

Mr. HALDANE.—One must look at the statute to see what it is. It is really a power or right to claim exemption from a tax which is levied on the whole community for a system of education for the benefit, not of a minority, but of the whole.

The Lord CHANCELLOR.—There was a division in the first instance, into separate districts—Catholic districts and Protestant districts—although there was some overlapping, and the people who managed the education in the Catholic districts would be Catholics.

Mr. HALDANE.—Not exactly so. In the first place there was a general board of education which managed the whole, but certain subjects were taken out of the jurisdiction of that board and transferred to particular sections of that board, and I say that was an exemption; but if you take away the board which had control of the whole, I say the exemption is taken away. That is the way I put it.

Lord MACNAGHTEN.—Before 1890 had not the Roman Catholics schools of their own which were appropriated for the purpose of the Public Schools Act?

Mr. HALDANE.—There were unorganized schools. They were not appropriated.