Robert Collier, with four East Indian judges, Sir James Colville, Sir Robert Couch, Sir Barnes Peacock and Sir Arthur Hobhouse, together with only one judge of standing from the English bench, formed the judicial committee, under the presidency of the Lord Chancellor of the day, when he was sitting, which was vested with the responsibility of interpreting the Canadian constitution, but as a matter of fact, on several occasions, in the guise of interpretative decisions, they wrote material amendments to the Canadian constitution, which to this day are binding upon our Canadian courts.

In the result, if Canada is to develop as a nation, we are constrained to procure amendments to the British North America Act, though there are reasonable grounds for the conviction that any new amendments are not likely to meet a better fate before the judicial committee than that which overtook certain sections of the original act.

The obvious aberrations of the judicial committee are partly explained by the fact that its members assume to exercise legislative and political as well as purely judicial functions. Haldane, Q.C., who shortly afterward became Lord Chancellor and president of the judicial committee, in 1899, in the Judicial Review, volume 11, page 279, in extolling the work of the late Lord Watson as a member of the judicial committee, frankly admitted the exercise by the committee of political functions. He said of Lord Watson:

> He was an imperial judge of the first order. The function of such a judge, sitting in the supreme tribunal of the empire, is to do more than decide what abstract and familiar legal conceptions should be applied to particular cases. His function is to be a statesman as well as a jurist, to fill in the gaps which parliament has deliberately left in the skeleton constitutions and laws that it has provided for the British colonies.
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> The imperial legislature has taken the view that these constitutions and laws must, if they are to be acceptable, be in a large measure unwritten, elastic, and capable of being silently developed and even altered as the colony develops and alters. This imposes a task of immense importance and difficulty upon the privy council judges, and it was this task which Lord Watson had to face when some fifteen years ago he found himself face to face with what threatened to be a critical period in the history of Canada.

Haldane may have been referring to the disputes arising out of such appeals as Russell v. the Queen and Hodge v. the Queen, in the early eighties, or he may have had reference to the political campaigns in 1886 and 1887 for the secession of Nova Scotia from the dominion, or possibly to the resolutions of the conference of the Liberal premiers which was held at Quebec in 1888. Haldane then proceeds:

> Two views were being contended for. The one was that, excepting in such cases as were specially provided for, a general principle ought to be recognized which would tend to make the government at Ottawa paramount, and the governments of the provinces subordinate. The other was that of federalism through and through, in executive as well as legislative concerns, whenever the contrary had not been expressly said by the imperial parliament.
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> The provincial governments naturally pressed this latter view very strongly. The supreme court of Canada, however, which had been established under the Confederation Act, and was originally intended by all parties to be the practically final court of appeal for Canada, took the other view. Great unrest was the result, followed by a series of appeals to the privy council, which it was discovered still had power to give special leave for them, was commenced.

The only knowledge which members of the judicial committee could have had of these domestic political controversies was derived from infrequent cable messages published in the London Times or from gossip in the purlieus of the courts at London.

Haldane then relates that he was engaged as counsel for the provincial premiers in a number of these appeals, and that Lord Watson, by his several judgments, sought to modify and amend the Canadian constitution so as to bring it in accord with their conceptions of the exigencies of partisan political contests in Canada. If the Supreme Court of Canada were admittedly influenced by such considerations, its members would be liable to impeachment. Mr. Haldane proceeds:

> Lord Watson made the business of laying down the new law, that was necessary, his own. He completely altered the tendency of the decisions of the supreme court, and established in the first place the sovereignty (subject to the power to interfere of the imperial parliament alone) of the legislatures of Ontario, Quebec and the other provinces. He then worked out as a principle the direct relation, in point of exercise of the prerogative, of the lieutenant governors to the crown. In a series of masterly judgments he expounded and established the real constitution of Canada.

Mr. SPEAKER: I am sorry to have to interrupt the hon. gentleman, but his time has elapsed.

Mr. CAHAN: I crave the indulgence of the house.

Some hon. MEMBERS: Go ahead.

Mr. SPEAKER: The hon. gentleman may proceed with the consent of the house.