Council did not possess the capacity to deal with legal problems with knowledge and judicial integrity. While I enjoyed the speeches of the honourable senator from Inkerman (Hon. Mr. Hugessen) and the honourable senator from Vancouver South (Hon. Mr. Farris) I was not at all moved by their remarks, because the question of whether or not Canada should have a court of ultimate appeal is not something I must look at through the eyes of the Privy Council or any other person who is occupying a position outside Canada. I am only concerned with the question of whether we are taking a step which is in the best interests of Canada, having regard to our present national and international stature. Is it best for us at this time to set up a final court of appeal in Canada to hear civil as well as criminal cases? I do not think there should be much trouble in answering that question. If in world affairs we are claiming and asserting our rights as a nation, and if we are acquiring an international status, then I say it behooves us not to place ourselves in a position similar to that which we held in an earlier period of our history, when we were a colony and inferior in status to other countries as well as to Great Britain.

Some Hon. Senators: Hear, hear.

Hon. Mr. Hayden: May I illustrate how in the course of the years the fervour for nationhood in Canada welled up to a certain point, then subsided a bit, and then came on again. If you study the history of Canada down to the time of the Statute of Westminster, you will find that we went through an evolution in the attainment of responsible government and greater power in the management of our own affairs. In 1906 we took it upon ourselves to say that the Supreme Court of Canada was the ultimate court in criminal appeals. But the Privy Council, in a decision handed down in 1926, in *Rex v. Nadon* held that we had gone too far. It held that since the British North America Act was an imperial statute, and that since there were in existence when it was passed two other imperial statutes—the Judicial Committee Act of 1833 and the Judicial Committee Act of 1844—which gave Canadians, under royal prerogative, the right to appeal to the Privy Council, the only way of excluding that right was by the passage of another imperial statute. But in the Nadon case the same result was achieved by refusal of the Privy Council to grant leave to appeal.

In 1931, under the Statute of Westminster, we took unto ourselves almost the full attributes of nationhood, but we hesitated to assert the right to amend our own constitution. In the Nadon case the Privy Council held that section 1025 of the Criminal Code was ineffective to make the Supreme Court of Canada the court of ultimate appeal in criminal cases, and at the session of 1932-1933 we repealed subsection 4 of that section, which by then had become section 1024, and immediately re-enacted it. The effect of this repeal and re-enactment was to constitute the Supreme Court of Canada, in 1933, the final court of appeal in criminal matters. But we did not take at that time the further step of abolishing the right of appeal to the Privy Council in all cases.

Then we started to lag. We went through a period when there was introduced in the House of Commons a private bill to make the Supreme Court of Canada our court of last resort. This was followed by a reference to the Supreme Court of Canada on the question whether we had the power to pass such legislation. Then we went through the period of war, when there was a welling-up of the spirit of complete independence that had necessarily developed out of the position that we assumed at the outbreak of hostilities. Finally, in 1946, the Citizenship Act was passed. We had at last reached the stage where our pride in and love of country demanded expression in a form that would show the world that we were citizens of this distinct and independent country, Canada. We are now taking the further step of abolishing all right of appeal to the Privy Council and, through the resolution which was moved here yesterday, of obtaining the power to amend our own constitution.

All these actions are natural and inevitable steps in the constitutional development of Canada. There is no turning back now. We must either abandon our nationhood or stand forth before the world as a nation free and independent, capable and sufficient unto itself to manage its own affairs, in judicial and constitutional as well as in all other matters. We must either accept the full responsibilities of nationhood or fall by the wayside and remain inferior to other nations in fact as well as in outward appearances.

It seems to me, then, that the question is simply whether we are to go forward as a nation or be bound by an adherence to the past. I agree with a remark made in 1895 by Oliver Wendell Holmes, in a speech to the Harvard Law Club:

> There is, too, a peculiar logical pleasure in making manifest the continuity between what we are doing and what has been done before. But the present has a right to govern itself so far as it can, and it ought always to be remembered that historic continuity with the past is not a duty, it is a necessity.

I submit that to the historic past we owe no tribute except such as may be induced by necessity. None can be dictated by duty, for our duty is to the present, to ourselves. We