fact it would appear that they seldom, if ever, inform themselves concerning, and they have refused to refer to the political and parliamentary history of British North America as an aid in construing the original meaning and intent of the British North America Act. It is true that the judicial committee occasionally refer most casually to the intention of the parliament of the United Kingdom in enacting the British North America Act, although in so doing they ignore the fact that in enacting this measure the parliament of the United Kingdom was merely adopting and confirming a draft prepared by Canadian statesmen, who were expressing their final conclusions in the English language as then employed in British America, and that that parliament, without detailed discussion, enacted the bill as it had been drafted. They have therefore repudiated every suggestion that the terms of the act should be construed in accordance with the intentions of those who framed it, as clearly expressed in the public documents and debates which preceded its enactment.

Those who have carefully studied the constitutional development of these British North American colonies will frankly concede that the clear intentions of the Quebec conference resolutions, on which the act of 1867 was based, have in many instances been completely frustrated by decisions of the privy council, which our Canadian courts have been obliged to follow, despite their own opinions to the contrary. In fact, members of the Supreme Court of Canada, in deciding constitutional issues, must frequently refrain from considering the real meaning and intent of the framers of the British North America Act, and restrict their intellectual efforts to ascertaining as best they can the purport of the apparently conflicting decisions of the judicial committee.

Let us take as one example the "peace, order and good government" clause. Section 91 of the British North America Act enacts that:

> 91. It shall be lawful for the queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces:

This phrase, "to make laws for the peace, order and good government" of Canada had been employed throughout a century in all the royal commissions and instructions to colonial governors in British America; in the Quebec Act of 1774, the Constitutional Act of 1791, and the Union Act of 1840, as clearly indicating that the power to make laws for the peace, order and good government of a colony or province included the power to make any and all laws which were not repugnant to such statutes of the parliament of Great Britain as in terms extended to such colony or province.

Lord Carnarvon, Colonial Secretary, in introducing the British North America bill to the House of Lords on February 19, 1867, said:

> It will be seen under the 91st clause that the classification is not intended to "restrict the generality" of the powers previously given to the central parliament, but that those powers extend to all laws made "for the peace, order and good government" of the confederation—terms which, according to all precedent, will, I understand, carry with them an ample measure of legislative authority.

But during the past seventy years successive decisions of the Judicial Committee of the Privy Council have so far frustrated the intentions of the founders of the Canadian confederacy as to obliterate the residual power of the parliament of the dominion to make "laws for the peace, order and good government of Canada," except in the extreme case of civil strife or insurrection arising in Canada, or in the case of Canada becoming involved in war with a foreign state.

On the other hand, the judicial committee have so extended the legislative jurisdiction of the provinces to make laws "in relation to property and civil rights" as almost to reverse the relations originally intended to exist between federal and provincial powers, by vesting nearly all residual powers in the provinces, under the power to make laws in relation to property and civil rights in the province.

In a recent address at Toronto I explained in detail the origin and evolution of the provisions contained in section 92 of the British North America Act that "in each province the legislature may exclusively make laws in relation to matters coming within" the class of subjects therein designated as "property and civil rights in the province," and I showed quite clearly, I think, that that clause was inserted in section 92 of the British North America Act, as was declared at the time, and as all students of our Canadian history well know, for the protection of those French customs, laws and ordinances which had reference to the personal, family and community life of the French-Canadian people, and which had been definitely ascertained and embodied in the final report made by the commissioners for the codification of the civil law of Quebec on November 24, 1864.