does mean a request by the Canadian Bar Association to have that kind of amendment written into the bill. If that is so, then why did they pass a resolution—

Mr. Fulton: In the light of the later statement.

Mr. St. Laurent: In the light of the later statement by the president of the Canadian Bar Association? I submit with all respect that no one man, whatever be the position he occupies in the Canadian Bar Association, and I have occupied the office of president of that association—in my day—has the right to enlarge or modify the terms of the resolution adopted by that association. The argument of the hon. member is that because the resolution can have no other effect it must mean that the Canadian Bar Association wished it to be written into the bill. That is the best reason in the world for not putting this kind of amendment in the bill, because it is quite unnecessary, and there might be some honourable judges who, like the hon. member for Eglinton, would say: Parliament cannot have put that provision in there for no purpose whatever; let us find some use to which it can be put. That is what the hon. member does with the resolution of the Canadian Bar Association, and I think that is a most conclusive reason for not writing unnecessary provisions into statutes.

Mr. Pouliot: Listen to that.

Mr. St. Laurent: The third point has to do with the constitutional rights of this parliament to enact, on matters which normally are not within its jurisdiction, what would amount to substantive law. If this parliament has the right to say, otherwise than because it is the existing law, that the court shall do such and so, it would have a similar right to say that the court shall not do such and so; and to lay down a rule that the court would not be bound by the application of the *stare decisis* principle would be, I submit, something beyond the powers of this parliament.

If we have the right to deal with a subject matter we have the jurisdiction to deal with it as we see fit. If we see fit to say that *stare decisis* should apply, then it would be within our jurisdiction to say that it shall not apply, and in doing so we would certainly be attempting to enact substantive legislation in fields that might well be outside the jurisdiction of this parliament. I know that is not the position taken by the hon. member. He says that the rule of *stare decisis* is already a part of the law, and that by putting it in the bill we do not enact anything new. If we do not enact anything new then I submit it has no place in the bill, and that we should not write provisions into the bill, along the lines of the resolution of the Canadian Bar Association, that will have no effect whatsoever but be merely an empty affirmation of something which is quite as valid without it.

Mr. Browne (St. John's West): Mr. Chairman, I rise with great hesitation because what I am going to say is somewhat in opposition to what has been said by the Prime Minister. I have before me the eloquent speech which he made on the 23rd of September, and in which he was dealing with the question of *stare decisis*, I think in terms a little less careful than those in which he dealt with it this evening. May I be permitted to read what he said. He quoted the decision of the Canadian Bar Association that the rule of *stare decisis* ought to continue to be applied with respect to past decisions of the court, as well as with respect to past decisions of the judicial committee. I should now like to quote what the Prime Minister said, which is to be found at page 197 of *Hansard* of September 23, 1949, and reads as follows:

> That is something with which I entirely agree.

Mr. St. Laurent: Yes.

Mr. Browne (St. John's West): He went on to elaborate and to say:

> I think it is a part of the system of the administration of justice in British countries that the decisions are regarded as binding upon themselves and upon all courts of lower jurisdiction, until they are modified or set aside by legislative action. I think that forms part of the duties which a lawyer promoted to the bench promises on his oath to carry out.

Then he went on to say, as he said this evening, that he would not reflect upon the men who were appointed to the supreme court bench by suggesting for a moment that they would not carry out the duties of their oath of office. No one here is reflecting upon the ability and the integrity of the judges appointed to the Supreme Court of Canada, but what really incited us to put forward the amendment was the statement, which was quoted in the Ottawa *Journal* of June 2, of no less a person than the Chief Justice of the Supreme Court of Canada.

Mr. St. Laurent: Will the hon. member permit a question? Was he here when I explained that situation this afternoon?

Mr. Browne (St. John's West): Yes, I was present and I listened very carefully to what the Prime Minister said. I studied as much as I could about the decision because I greatly regretted, when I heard of the case in which the chief justice was reported as having made that extraordinary statement, that I could not find the case. I hunted through the library of parliament and it is not available. There is a report of the