amounts proposed or the amounts that had been paid in the past. It is sufficient to realize that all parties acknowledged the need to update the system under which such subsidies were administered. The issue had been discussed at a federal-provincial conference convened solely for the purpose of that discussion. It was there, with a provincial premier as the chairman of the conference, I might add, that agreement was reached between the federal government and all provinces save British Columbia as to how the provisions for subsidies should be changed. British Columbia's opposition was later taken into consideration and some changes were made to accommodate that province. It was Wilfrid Laurier, who was prime minister of the day, and his wisdom, which I noted earlier, which prevailed. He again reiterated his philosophy in the House of Commons in 1907 by saying:

> Confederation is a compact, made originally by four provinces but adhered to by all the nine provinces who have entered it, and I submit to the judgment of this House and to the best consideration of its members, that this compact should not be lightly altered.

That is so true. The compact should not be lightly altered and it was not altered by Mr. Laurier. He managed to reach a consensus with the parties concerned and then and only then did he submit the proposed change to the British Parliament for approval. However, as I mentioned earlier, the government of British Columbia was not completely satisfied with the deal which was proposed so it petitioned the British government asking them to change the wording of the amendment. This was done because, as Winston Churchill put it in a speech to the British Parliament, "I would be very sorry if it were thought that the action which His Majesty's government had decided to take meant that they had decided to establish as a precedent that whenever there is a difference on a constitutional question between the federal government and the provinces, the Imperial government would always be prepared to accept the federal point of view as against the provincial." He did not want it understood in Canada that the Imperial government would let the child of the provinces, the federal government, be the dominant master of the government of the United Kingdom. That was his position. The provinces should prevail, consensus should be reached.

That is an opinion to be highly regarded and a precedent to be taken seriously. And it is in no way one that is buried deep in the volumes of history. The *Daily Telegraph* of London just a couple of weeks ago made the assertion that Mr. Churchill's view of such a situation should still apply, that is, that the British Parliament is under no obligation to accept the federal view as the final word regardless of threatening statements made by the Secretary of State for External Affairs (Mr. MacGuigan) and the Minister of State for Science and Technology (Mr. Roberts). On the other hand, it is well within their rights to heed the voices of the provincial governments in this current struggle. Also I might add that they are well aware of the differences between the federal and provincial governments as evidenced by statements in the press such as the one I have just noted and the comments made by some members of the British parliament. These men seem to be in no way intimidated by the threats of the dynamic duo.

● (2150)

The second example which I feel deserves mention took place in 1940. It is one that I believe establishes a rather valuable precedent with regard to the matter currently before this House. In 1935 the government of the then prime minister, the Right Hon. R. B. Bennett, enacted legislation to establish unemployment insurance in Canada. The government of the day believed it to be within its jurisdiction to enact such legislation and they had been advised by their counsel to that effect. The opposition, under Mr. Mackenzie King, had demanded a referral to the Supreme Court for its opinion on the validity of such legislation. However, an election was called before such action could be taken. When the new Parliament took office—and I ask members on the other side to note this—under Mr. Mackenzie King the legislation was indeed referred to the Supreme Court which ruled that it was ultra vires of Parliament. An appeal was then launched before the Privy Council, at that time the highest authority on such matters. The Privy Council handed down its decision in 1936 which read in part as follows:

> —Dominion legislation, even though it deals with dominion property—

I ask hon. members to take note of the next phrase—

> —may yet be so framed as to invade civil rights within the province, or encroach upon the classes of subjects which are reserved to provincial competence. If on the true view of the legislation it is found that in reality in pith and substance the legislation invades civil rights within the province, or in respect of other classes or subjects otherwise encroaches upon the provincial field, the legislation will be invalid. To hold otherwise would afford the dominion an easy passage into the provincial domain.

This is precisely what is going on. In the manipulative fashion in which this matter has been presented to us, we may have no access to the courts. There may be no recourse for provinces or individuals, and I submit that we are, at least in a democratic country, entitled to access to the courts. If this is denied to provinces and individuals of this country, what value is any entrenched bill of rights for any citizen, any province, any yet unborn Canadian? There is no confidence in this.

Some hon. Members: Hear, hear!

Mr. McCain: This ruling obviously left the Mackenzie King administration only one course if it wished to enact legislation on unemployment insurance. It had to amend the constitution. This was the route that was followed over a period of three years. Beginning in 1937 Mr. King communicated with the provinces to determine their feeling on the proposed amendment to the constitution. In doing so he discovered that not all provinces were in accord with the federal position. Alberta, under a Social Credit government, New Brunswick, under a Liberal government and Quebec, under a Union Nationale government, all declined to agree to the proposal. It was at this point that Mr. Mackenzie King could have adopted the attitude of the present government, but he was a wiser man. He could have gone ahead with the amendment without full provincial consent. However, he chose to wait until he had full provincial approval before proceeding. He elaborated on this attitude in the House on more than one occasion. At one point in 1938 he was asked when the legislation providing for the