into the six pigeon-holes provided, that there were still wide differences on major matters of principle. No substantial progress was therefore made until the question was again taken up in 1960.

Several reasons may be suggested for the failure to achieve concrete results—particularly after the apparent agreement on a general formula in 1950. In the first place the unilateral action of the Federal Government in obtaining the new amending procedure in 1949—before the federal-provincial conference was due to meet—did not improve the prospects of agreement with the provinces. Secondly, several provincial governments were not anxious to rush into a new amending procedure, preferring the certainty of what they knew to the uncertainty of the unknown. An amending procedure that made the Constitution much more rigid would be worse than the present one. Finally, it should be noted that the urgent need for constitutional amendment was not felt so acutely in the 1950's. The discussion of the amending procedure in the 1930's arose out of a desperate anxiety to adapt the machinery of government to meet the challenge of a national disaster at a time when it seemed the Constitution itself made effective remedial action ineffective. In the postwar period this sense of urgency was lost because the fiscal and monetary techniques developed during the War, together with the wide powers of the central government over defence, seemed adequate for effective national government without any constitutional change.

The only remaining reason for a change in the amending procedure was the question of prestige and constitutional tidiness. It has become increasingly difficult to explain—either to Canadians or to foreigners—why the constitution of an independent State still must be returned to the Parliament of another country—like a rented suit to the tailors—whenever alterations in it are required.

In any event, the question was revived at the federal-provincial conference held in November 1960. Indication was given that progress might be more rapid if the two stages of the problem were dealt with separately, i.e., that steps be taken to 'domicile' the Constitution first, and that agreement be reached later on the details of the amending procedure. It would seem, however, that the two are inseparable and that nothing can be gained by re-enacting the Constitution in Canada if the Constitution does not have some machinery for its own amendment. The outstanding legal problems under discussion at that time were as follows.

1. *The Techniques of Repatriation.*—It would not suffice simply to re-enact the British North America Act as a Canadian statute, because this is the one British statute which the Parliament of Canada cannot (except as described above) alter directly. A necessary first step would be to seek an amendment to Sect. 7 of the Statute of Westminster, before arranging for the repeal of the British North America Acts by the British Parliament and an enactment in Canada of the Canadian Constitution.

As a matter of purely abstract law, this would not affect the supremacy of the British Parliament over the Canadian Constitution, nor the theoretical power of the British Parliament to repeal the Statute of Westminster and thus by implication revoke the legislative sovereignty which that Act provided for Canada. This is not, however, a matter of any practical importance. As Lord Sankey said, "It is doubtless true that the power of the Imperial Parliament to pass on its own initiative any legislation that it thought fit extending to Canada remains unimpaired, indeed, the Imperial Parliament could, as a matter of abstract law, repeal or disregard section 4 of the Statute. But that is theory and has no relation to realities."*

* *British Coal Corporation v. the King* (1935) AC 500, at p. 520.