Mr. Baker (Nepean-Carleton): Mr. Speaker, I rise on a point of order. I apologize to the minister, but I want him to understand that what we were talking about was a resolution debatable and amendable in this House in the form of an address to Her Majesty the Queen and to the British Parliament. We were not talking about the concurrence debate which was referred to by my friend. Precisely that is what the Hon. Leader of the Opposition (Mr. Clark) was referring to at that time, just so that he understands.

Mr. Roberts: I think I understand the hon. member for Nepean-Carleton (Mr. Baker), but it does not seem to me that that is the clear purport of the remarks made by his leader.

Mr. Baker (Nepean-Carleton): Resolution.

Mr. Roberts: What is referred to is not the resolution before the House, but a resolution which has gone to the committee. It refers to the report made by the committee. His leader said:

Only when that resolution is presented will we know if the government has taken any account at all of the views that are expressed by members of this House of Commons—

Clearly the reference is a report coming from the committee after it has been referred by the House to the committee. This procedure, which seems to have elicited so much surprise today, is one that has been perfectly well known to members opposite for some time.

As I said, I welcome the opportunity to take part in the debate.

Mr. Baker (Nepean-Carleton): We welcome you too.

Mr. Roberts: I am glad the hon. House leader opposite welcomes my participation in the debate which clearly has gone on for some time.

I hope to discuss seriously some of the points made by other speakers in the debate. Inevitably in a debate which has gone on this long there is a certain redundancy of argument and a certain reference to what has already taken place. Of course in a debate which has ranged so widely, inevitably there are things that appear to be consistent and some seem to be inconsistent. It seems to me somewhat surprising when we proposed a charter of rights for individuals, which is a common element in virtually every federal system in the world, that critics should accuse us not of supporting federalism but of abandoning British tradition. When we propose an amending procedure with an attached referendum, they falsely accuse us of establishing a unitary system of government which is characteristic of the government of Great Britain. They do not condemn us for accepting the British unitary system but they accuse us of abandoning federalism.

Perhaps it is even more surprising that provincial governments attack us for suggesting that an appeal to the courts should be permissible to protect the rights of the people, and then themselves appeal to the courts to protect the rights of provincial governments, as if somehow it is more important that the courts protect the rights of provincial governments rather than the rights of individual citizens.

Of course in our proposals we have neither abandoned the British parliamentary tradition nor the principles of federalism; we embrace them. In our proposals for reform we do not alter the distribution of powers between two levels of government, the essential of any federal system, nor do we propose to abandon the traditions of British government, the linkage between the executives and the legislatures which is common to the tradition not only of this House but to the legislatures of the provinces. We are not suggesting to change any of that. Indeed we have preserved in our proposals both the desirable aspects of the parliamentary system and the balance of federalism.

I should like to refer essentially to two speeches made at the beginning of this debate. First I refer to the speech of the Leader of the Opposition in which I think we dwelt largely on a marginal or peripheral—I do not say unimportant—concern with section 42 of the amending procedure.

● (1610)

I would also like, perhaps a bit later, to refer to the remarks of the Leader of the New Democratic Party (Mr. Broadbent), partially because I believe that he stated very clearly to the House the two essential questions which confront the House and upon which the House must at this stage decide.

Let me first refer to the remarks of the Leader of the Opposition. While he did refer to the inappropriateness, as he believes it, of the government proceeding in the fashion which is described in the joint resolution that will be forwarded to the Queen, and therefore to the attention of the British Parliament, a large portion of the Opposition Leader's remarks dealt with the effect of the amending procedure which we have proposed for the consideration of the House. I would like to refer in passing to the hon. member's remarks suggesting that we were following what he called a "unilateral" procedure. Clearly, it is not a unilateral procedure because we have the support of others, and it is not merely the government.

The unilateral approach to the constitutional amendment is one which he described as contesting the validity of the approach. I think it is undoubtedly clear that what we have proposed is the proper legal approach. The British North America Act is an act of the British parliament and therefore amendable by that Parliament. Clearly, the procedures under which that amendment will take place through the British parliament are well known.

It is contested that constitutionally the precedents which underlie an address from the House of Commons and Senate of Canada may not have been fulfilled in this circumstance. It seems to me that there is confusion as to what are those precedents. Therefore, I would like to dwell on the question of what the constitutional conventions have been in the past as they relate to amendments of the constitution of Canada, the British North America Act.

One can judge differently the number of amendments which apply. Strictly speaking, there are 18 amendments to the BNA Act and, if one includes the Statute of Westminster, there are a few more. In only four instances—five, if one includes the