This is clear to the Indians and the native peoples of Canada. They know what the government is trying to do. They will not be fooled again. The native people realize that what these constitutional amendments really mean is that the government is seeking a cowardly and ignoble way out of fulfilling its responsibilities directly to the native peoples, as it is required to do by the BNA Act, and trying instead to devolve that power to the Supreme Court, an appointed, not an elected body. Where is the democratic representation in that move?

So much for the minister's intolerable disappointment. He either does not understand the implications of the charter of rights or he is in collusion with this infamous attempt to rob the Indians of their ancient rights.

I submit to you, Mr. Speaker, that indeed this proposal does not guarantee the continued participation of the native people of Canada in their own constitutional destiny; that it does not guarantee their rights, as alluded to in Section 33; and that it does not guarantee that fair and representative native counsel will be sought during the two-year interim period between passage of the act and the coming into force of Part VI of the act.

Briefly put, the amending provisions of this act do not accommodate, beyond the two-year interim period, any future participation, of the native peoples of Canada in any further constitutional change that may affect them, their treaty rights, or their aboriginal rights; none at all.

Furthermore, under Section 132 of the BNA Act and the natural resource transfer agreements, it is clear that Indian rights are the responsibility of the federal government, and the federal government alone. While there is provision in the amending formula for at least a measure of provincial participation in future constitutional change, there is absolutely none for aboriginal peoples. Clearly this gives rise to an obvious constitutional contradiction. It will be quite possible that in the future the provinces will be part of a decision-making process which might change the Constitution as it relates to native and aboriginal rights. Indian and native rights are exclusively and always have been the responsibility of the federal government.

As I mentioned before, these are the shortcomings in the amending formula before us. As if they were not bad enough, the greatest resistance to the package must be when it comes to the third part, the charter of rights. Resistance, the voice of reason, must be heard with respect to this part in two distinct ways: first, as a matter of principle, and second, as a matter of substance.

The Minister of Justice (Mr. Chrétien) has asked with passion how can we, the members of the opposition, "stand each in turn and move preposterous amendments to the charter of rights and then the next day . . . vote against it."

I am very happy to endorse the hon. member for Provencher's reply to this. He said that "—in order for the charter to find agreement among Canadians, it must be more than words—it must enjoy consensus and legitimacy—and—what Canadians want is a charter which is carefully considered and approved by Canadians in Canada!" And that is why I can approach the charter from two points of view, the point of principle and the point of substance.

Now, as far as the principle of a charter of rights is concerned, I agree entirely with the hon. member for Rosedale who said that one of the things "our forefathers learned about rights was their rights lay in the common law, that they did not need to have their rights listed; that the only listing came when those rights were reduced, that if they can write it down then they can take it away."

I also agree entirely with Professor Russell of the University of Toronto, who said in January that "I am not one that sees a need for a great deal of change, we have one of the oldest Constitutions in the world (dating back to 1215) and I think we have done pretty well by it—." As Professor Russell said later, "I have not heard any strong, good, clear reasons why the entrenchment of rights has to take place now and through the British Parliament."

I consider this to be very sound reasoning, notwithstanding the tedious and, at times, hysterical screams from across the floor about the need in Canada for a charter of rights. What members opposite constantly fail to point out in the midst of their high-blown speeches on equality and so on, is that it is not so much that these rights are new and will be newly protected on the passage of this charter, as that the process of interpreting these rights will be new. Make no mistake that in the aftermath of the passage of this bill, if it occurs, and for literally centuries afterwards, the Supreme Court of Canada will judge the validity and extent of these rights and will stamp their interpretation on them for all time. These rulings will be binding.

Now this means essentially that the function of interpreting human, civil and democratic freedoms in this country is to be taken out of the hands of the 282 elected representatives to the House of Commons and put in the hands of the government-appointed judges to the Supreme Court of Canada. This is the devolution, or should I say the centralization of power that we are talking about, and the people of Canada should make sure they are fully aware of this before this bill goes through.

• (2120)

What we are doing is Americanizing our judiciary and imposing upon the Supreme Court a political burden of great weight, one that they have never had before. Who knows how, in future decades, the Supreme Court will interpret these marvellous and noble rights that everyone is going on about?

As was said in committee, this charter does not guarantee rights or freedoms, what it does is guarantee a change, a very significant change, in the way in which decisions are made about rights and freedoms.

Can members on both sides of this House be assured that Canadians want to Americanize their system of government? Are they being given that clear choice? The Prime Minister, quite simply, is taking away from Parliament the power and the process of democratically discussing fundamental principles of freedom and is putting that power into the hands of a few, a very few, members of the judicial branch of govern-