[*Translation*]

Again in 1946, when Quebec objected to an amendment to change the principles of representation in the House of Commons, former Canadian prime minister Viscount Bennett stated before the House of Lords, and I quote:

[*English*]

Canada is the only one of the Dominions in which a party majority can amend the Constitution. They cannot amend it directly but they do it indirectly, because we have agreed that we will consent to pass any legislation that they may petition to have passed by this Parliament.

[*Translation*]

Similarly, in 1949, when an amendment enabling our federal Parliament to amend its own constitution was moved, no mention was made to the British Parliament that certain provinces were fiercely opposed to that amendment. The Secretary of State for Commonwealth Relations said, and I quote:

[*English*]

The bill is cast in the terms of the address adopted by the federal Parliament of Canada and, of course, we are all ready to do what they desire.

[*Translation*]

When in 1960 we had before us the amendment providing for compulsory retirement of Superior Court judges at age 75, the Secretary of State for Commonwealth Relations declared, again I quote:

[*English*]

—legislation by the United Kingdom Parliament is still necessary where the subject of the amendment is one which affects the interests both of the federal Parliament and the provinces.

We are therefore to all intents and purposes acting in what is a formal capacity for the Canadian Parliament in a matter which is solely its concern. In accordance with long-established precedent, we refrain from discussing the merits of a Bill submitted to us amending the British North America Acts when this Bill has been introduced in consequence of Addresses to Her Majesty adopted by both Houses of the Canadian Parliament.

[*Translation*]

Clearly, Mr. Speaker, the position expressed on many occasions by spokesmen of the British government cannot be misunderstood. Indeed, it is crystal clear. On 21 occasions, or each time it was asked to do so, the British Parliament agreed to a request of the Canadian Parliament without concerning itself with knowing whether the provinces had been consulted, whether they had expressed their agreement or whether they had disagreed.

Indeed, the Canadian Parliament is not required to consult the provinces and get their agreement before submitting a request to the British Parliament. The Chief Justice of the Manitoba Court of Appeal explained this quite well and substantiated it in an elaborate judgment given on February 3 last. In any case, long before this judgment was given, Canadian experts had already recognized this fact. For instance, in 1935, Professor Kennedy appeared before the Special House Committee on the Constitution of Canada and said the following on this subject:

I do not believe that the Parliament of Canada has the least legal obligation to consult the provinces in the process. This might be very good policy, but policy is not law. I believe that the Canadian Parliament can submit any request to the British Parliament.

This view was shared at this time by Professor Norman Rogers. It was also repeated before committee members by Professor Gil Rémillard, who had been invited at the suggestion of the official opposition, and by Professor Gérard Laforest, invited at the suggestion of the government party. This same view was expressed in the House by the Hon. Ernest Lapointe in 1940, by the New Brunswick premier, the Hon. Mr. McNair, in 1950 at a federal-provincial conference, and more recently, in 1978, by the Hon. Ron Basford and the Hon. Marc Lalonde. There is therefore no obligation for the government or the Canadian Parliament to consult the provinces or to obtain their consent before making a request to the British Parliament. The Manitoba Court of Appeal confirmed this once again on February 3 last. In the present context, to amend the Canadian Constitution, the Canadian Parliament can therefore submit a request to the British Parliament which, on 21 occasions since 1867, has always agreed to such requests without taking a position on their contents. Mr. Speaker, some people have thought, quite wrongly, that until now, the rule of unanimity applied. Again this week, hon. Senator Tremblay, whose integrity and commitment I respect, stated on the state-owned network that unanimity is the rule for amendments to the Constitution. According to the general impression, the provinces are better protected by the status quo which would be guaranteed by the so-called unanimity rule. According to this rule, all provinces must agree to any constitutional change. Unfortunately, as we have seen, this belief is not substantiated by our political history or the constitutional precedents.

In fact, we now have a constitutional amendment procedure which does not require the unanimous consent of the provinces, but a simple majority vote of the members of both Houses of the Canadian Parliament. Such are the teachings of history and jurisprudence. But, in my opinion, this cannot last if we want to truly really and thoroughly reorganize our federal institutions and adapt our Constitution to our present needs and future aspirations.

The Canadian Parliament must not retain this unlimited power to amend the Constitution of Canada by itself.

The rule of unanimity is an illusion behind which the provinces have taken refuge, Quebec in particular. It was not realized that this protection was a myth. Through its rejection of the amending formula in Victoria in 1971, Quebec has laid itself bare and is now shouting "rape!" That is what we must correct. The present resolution is doing just that by writing into the new Constitution the provinces' formal right to express their views on all future amendments. What this resolution sets out to do is take away from the federal government the power to amend the Constitution on its own by going to Westminster and giving the provinces the right to propose and