is nothing. We will never, or not for 100 years perhaps, get a charter protecting our fundamental rights and freedoms if we wait until later. Women of Canada have said to me and to many others that if this is thrown into the battleground of federal-provincial conferences, we do not believe the 11 first ministers are going to give us our equality; we have no faith in it at all.

For example, if we look at what has happened in the United States we find that women there have been trying to get an equal rights amendment since 1924 and have not succeeded yet. Nor do I think that a constituent assembly is likely. I would like to see it, but I think it is unlikely it will come about. It is certainly not part of the Canadian historic tradition.

I would also like to make the point that at least some of us who read Canadian constitutional law believe the question of fundamental rights and freedoms is not part of Section 92(13) on property and civil rights. A charter of rights and freedoms is not a matter which can vary from one part of the country to another. It is something that is not strictly under provincial jurisdiction. The most important cases in the 1950s and 1960s—I am thinking of the Jehovah Witness case, the Roncarelli and the padlock law case—which had to do with civil liberties, freedom of speech, freedom of worship and freedom of assembly, or some aspect of our fundamental freedoms, denied that those freedoms were part of property and civil rights, and therefore under provincial jurisdiction. All those cases saw those rights as something that all Canadians must have, regardless of where they live. That being the case, we should look at the few cases there are concerning our rights and freedoms in Canadian jurisprudence.

In some ways, I suppose, it could be argued that it is amazing there are any such cases, since we have not had a charter of rights. Even the hon. member for Provencher (Mr. Epp), I think, is coming to the position that rights and freedoms are not something that you have, maybe, in Quebec but not in Alberta, or vice versa, they have to be everywhere. There are a few significant cases from which it becomes clear that substantially it is no infringement of provincial jurisdiction at all. I wish we would stop talking as if we thought it was an infringement of provincial jurisdiction to have a charter of rights and freedoms entrenched in our Constitution.

Another argument one sometimes hears is that, with a charter of human rights and freedoms, we are replacing legislative supremacy by judicial supremacy. There is no doubt there will be more litigation, but may I remind the House—I am sure that members do not need this reminder, but may I do so anyway—that the courts have been interpreting our rights and freedoms under the common law, or under the civil law in the province of Quebec, for years and years. It is not a matter of the courts not interpreting our rights and freedoms all this time; they have been doing so under common law or under statutory law. As I pointed out a moment ago, even under the BNA Act, in a few monumental cases they have been interpreting our rights and freedoms. We are not going from something called legislative supremacy to judicial supremacy. There will be more litigation, there is no question, but the important thing which this charter has made a major effort to do since the people of Canada were heard from is to ensure that a clear signal is given to the courts about what freedoms and rights we want to have protected, and, above all, in the area in which I am particularly interested, a clear signal has been given now, I think, that we want equality for men and women in the very substance of the law itself.

Some hon. Members: Hear, hear!

Miss Jewett: A moment ago, I spoke about the people who say "wait until later" and I argued that we will wait forever. There is a lot of talk about the amending formula. No doubt it is somewhat more flexible than the rule of unanimity which, of course, would be a complete straitjacket, as we all know. The proposed amending formula is somewhat more flexible. It asks for an amendment to the Constitution to be supported by regional majority, and it divides Canada into four regions. Personally I think it is still pretty inflexible. Any region will be able to veto any amendment. As I say, it is not as bad as unanimity, of course, but I do not see how anyone can think it will result in very many amendments.

● (1650)

That may well be as it should be. But some people would argue that a federal system, particularly relating to the division of powers—and the charter has nothing to do with the division of powers—should not be too flexible; it should be really tough to get an amendment. I think it will be very tough, indeed, and I do not see much likelihood of many amendments getting through quickly. Therefore, those who are putting all their hopes on amendments coming through are misplacing their hopes.

I should like to say a word or two about the amending formula. A good many of my constituents are very interested in and concerned about the amending formula. As I understand the Constitution, the proposed amending formula, whereby there must be a majority in each of the four regions to support an amendment, is not necessarily the last word. If the legislators, premiers and all of us come up with a better alternative formula during the two years after the proposals are patriated and when unanimity is required, it is my understanding the people of Canada could then choose between the regional majority formula and whatever alternative was presented.

I, for one, will work very hard to have a five-region formula established in Canada. I know I will have lots of support from my British Columbia and northern colleagues in the New Democratic Party. We in British Columbia feel very strongly that British Columbia is a distinctive region and that we constitute a fifth region of this country. If there is to be a different amending formula, as an alternative to the one proposed now, many of us will work toward having a five-region formula. I do not know whether we will have the support of other provinces. If we are to present an alternative to the one in the constitutional proposals which we are patriating, certainly it must be agreeable to the other provinces. It is