I quote as my authority *Beauchesne's Parliamentary Rules and Forms*, Fifth Edition, page 102, citation 313. This is one of the paragraphs under the heading "Content of Speeches".

> A Member may not speak against or reflect upon any determination of the House, unless he intends to conclude with a motion for rescinding it.

Citation 315 on the same page, continuing on to page 103, states:

> (1) It is a wholesome restraint upon Members that they cannot revive a debate already concluded; and it would be little use in preventing the same question from being offered twice in the same session if, without being offered, its merits might be discussed again and again.

I particularly draw to the attention of honourable senators the contents of paragraph (2) of citation 315, which states:

> (2) It is irregular to reflect upon, argue against, or in any manner call in question in debate the past acts or proceedings of the House, on the obvious ground that, besides tending to revive discussion upon questions which have already been once decided, such reflections are uncourteous to the House and irregular in principle inasmuch as the Member is himself included in and bound by a vote agreed to by a majority; and it seems that, reflecting upon or questioning the acts of the "majority" is equivalent to reflecting upon the House.

Therefore, I humbly request that Senator Murray withdraw his comments, because they are against a long-standing practice and tradition. If other senators wish to comment, I invite them to do so. I find it difficult to accept any other interpretation of the quotations I have just produced.

● (1430)

[*Translation*]

Hon. Arthur Tremblay: Honourable senators, I would like to make a few brief remarks on the comments made earlier by Senator Frith.

I certainly do not challenge his reading and interpretation of the provisions of the Constitution Act of 1982. I agree, and he stressed this very strongly, that it refers to two distinct resolutions and not to a joint resolution of the House of Commons and the Senate, and that this was contrary to previous practice, which is indeed perfectly accurate.

However, I think we should make a distinction between what I would call the final stage of the process, namely where the House of Commons and the Senate are each called upon to assume their separate responsibilities, and the stage at which a question, which may eventually lead to those two separate resolutions, in other words, to a constitutional amendment, is considered and reported. As far as the final stage is concerned, I have no quarrel with Senator Frith's analysis.

The motion before us today says:

> That a Special Joint Committee of the Senate and the House of Commons be appointed to consider and report—

At this stage, we are "considering". I think that the reasons given by Senator Frith for having the Senate decline an invitation from the House of Commons to consider jointly the subject in question are totally unfounded, and it seems to me his objections do not hold water.

In fact, I think that joint consideration, and I apologize for being repetitious, makes perfect sense more than anything else.

If we are to consider the draft constitutional amendment, the June 3 Constitutional Accord, it seems to me it would be in the interests of all concerned, and especially of the witnesses the joint committee might wish to invite, and any witnesses who might wish to be heard, to have this done simultaneously by the Commons and the Senate. I hardly think the Senate would object, if it sits in Committee of the Whole, to hearing witnesses that previously appeared before the Commons and vice versa. And there will surely be witnesses who will want to be heard in both places. So let them have an opportunity to be heard by both chambers simultaneously, instead of by each separately. I think it is just a matter of common sense.

I repeat, and I want to say this in concluding, that this does not in any way affect the distinct responsibilities of the two chambers at the subsequent stage, after consideration, when both chambers will assume their separate responsibilities, without seeing this as a challenge to the other's authority. That is what I had to say about the analysis given by Senator Frith.

Senator Frith: Honourable senators, would Senator Tremblay entertain a question?

Senator Tremblay: Yes, honourable senators.

Senator Frith: Honourable senators, unless I am mistaken the proposition of Senator Tremblay is as follows: A distinction must be made between the resolution, the final act and the study. If this proposition is true, it includes a corollary.

I would suggest that in the case of a bill, the final act or the final resolution of a bill consists in its adoption on third reading. Why not examine it together at the study stage? It is the corollary of his proposition, is it not?

According to him we would be better advised if we were to act independently to make a final decision, and we should make the study together. The same argument applies with respect to legislation.

But let us consider the process of a constitutional amendment we now have before us. We participate, as do the other partners. All these partners must pass their own resolution. Why did we not strike a joint committee with Ontario, and why not with the 12? All together we could study it, and then we should go our separate ways and make our final decision. That is the difficulty I have with the proposition of Senator Tremblay.

Senator Tremblay: Honourable senators, after the first words of Senator Frith I had the impression he was asking me whether I would accept a question from him. I did not detect a question in what he said. However I thought I detected a brand new suggestion: a proposition to convene all the legislative assemblies so they would undertake together the study in question.