

## Chapter 14

### COMMITTEE OF THE WHOLE PROCEEDINGS

**W**HEN THE SENATE wishes to consider a matter, or a set of related matters, in detail, with unlimited opportunities for senators to speak and move amendments, it resolves itself into a committee of the whole, that is, a committee of which all senators are members, and which meets in the Senate chamber.

Committee of the whole proceedings are used to consider bills, and other matters may also be considered in committee of the whole if they require or lend themselves to committee of the whole treatment. The consideration of bills in committee of the whole is dealt with in Chapter 12, Legislation, and Chapter 13, Financial Legislation. This chapter relates to committee of the whole proceedings generally and their application to matters other than bills.

#### **Appointment of committee**

Except in relation to bills, for which the Senate automatically resolves itself into committee at the appropriate stage, a committee of the whole must be appointed by motion to consider a matter (SO 143(1)). Normally this is done by a motion, moved when a document is laid before the Senate, that the document be considered in committee of the whole on a future day. The standing orders allow such a motion to be moved whenever a document is laid before the Senate (SO 169). This may be done, for example, with reports of the Procedure Committee recommending changes to Senate procedures. If such a motion is passed, the consideration of the document in committee of the whole becomes an order of the day for a future day, and when the order of the day is called on the Senate automatically goes into committee of the whole to consider the document (SO 143(2)). It is also open to a senator to move by motion on notice that a matter be considered in committee of the whole at a specified time.

#### **Chair of Committees**

The Deputy President and Chair of Committees is the chair of all committees of the whole of the Senate, and, when the Senate goes into committee, takes the committee chair, which is at the Senate table.

The location of the chair in committee at the table facilitates receipt of advice from the clerks on matters which may be complex, also facilitates communication with senators, and provides a readily visual signal that the Senate is in committee and that different rules apply to the proceedings.

If the Chair of Committees is absent during a committee of the whole, any one of the Temporary Chairs of Committees may take the chair (for the appointment of Temporary Chairs see Chapter 5, Officers of the Senate: Parliamentary Administration).

### **Proceedings in committee**

A committee of the whole may consider only the matters referred to it by the Senate (SO 144(1)). A committee appointed to consider a bill or a particular document cannot move to a consideration of any other matter; if another matter is to be considered the Senate has to appoint another committee of the whole.

Except to the extent that the standing orders provide different rules for proceedings in committee of the whole, the same rules apply as in the Senate, and the Chair of Committees has the same authority to uphold the rules in committee (SO 144(7)). Questions in committee are decided in the same manner as in the Senate (SO 144(2)), and a committee of the whole has the same majority as the Senate.

The Chair of Committees and a committee of the whole, however, have no authority to deal with disorder. Any disorder must be reported to the Senate, with the President taking the chair (SO 144(7), 203(2); see Chapter 10, Debate, under Disorder). The President may resume the chair in cases of sudden disorder in committee (SO 146(1)).

The Chair of Committees may make rulings in committee to interpret and apply the rules of the Senate, but if any objection is taken to a ruling of the Chair the Senate resumes, and the matter is laid before the President for decision (SO 145, 198).

The most significant difference between proceedings in the Senate and in committee is that in committee senators may speak more than once and move any number of amendments to the same question (SO 144(5)). This is the essence of committee proceedings: they provide an opportunity for thorough consideration of a matter, and that consideration does not conclude until senators do not wish to speak any further or move any further amendments.

There are certain minor restrictions on proceedings in committee. A committee cannot consider any motion which is contrary to its decisions; only the Senate can reverse a decision of a committee (SO 144(3)). The motion for the previous question cannot be moved (SO 144(4); see Chapter 9, Motions and Amendments, under Previous question). If a motion for the closure of debate or that the committee report progress (the equivalent of adjourning debate, see below) is moved, neither of those motions may be moved again within 15 minutes (SO 144(6)).

For the suspension of standing orders in committee, see Chapter 8, Conduct of Proceedings, under Suspension of standing orders.

### **Quorum**

The quorum of a committee of the whole is the same as for the Senate, that is, a quarter of the whole number of senators, 19 senators (SO 147(1); see Chapter 8, Conduct of Proceedings, under Quorum).

If a senator draws attention to the lack of a quorum in committee of the whole, the bells are rung for four minutes as in the Senate, but if a quorum is then not present, the committee reports to the Senate, the President resumes the chair and there is then a further opportunity to form a quorum in the Senate. If a quorum is then present, proceedings in the committee resume (SO 147(2), 52(2)). If the absence of a quorum is revealed by a division in a committee, no decision is reached by the division, and the lack of a quorum is similarly reported to the Senate (SO 147(2)). If proceedings in committee are interrupted by the absence of a quorum those proceedings are automatically made an order of the day for the next day of sitting and are called on accordingly (SO 147(3)).

### **Debate in committee**

As has already been indicated, in committee of the whole senators may speak more than once to questions before the chair.

A special time limit applies to debate in committee of the whole. A senator may not speak for more than 15 minutes at a time, but when a senator has spoken for 15 minutes and no other senator rises to speak, the senator speaking may continue to speak for a further 15 minutes. If there is then no other senator who wishes to speak, the senator speaking may not continue on the same question (SO 189(3)).

This means that if only one senator wishes to speak on a question before a chair, that senator is limited to 30 minutes' speaking time. The rule also means that at least two senators, speaking in turn, are required to keep debate going on a question in committee of the whole; a senator who speaks twice without any other senator rising cannot continue on the same question (see SD, 26/8/1999, p.7805-6, Temporary Chair Hogg and Senator Brown). When a senator is interrupted by the time limit, but has obviously not finished the speech, another senator may seek the call to speak and speak briefly solely for the purpose of allowing the senator whose time has expired to continue. The senator seeking the call may merely say: "I rise only to allow the senator to continue the senator's speech", and then sit down, allowing the senator whose time has expired to seek the call again and to continue speaking with what is technically a new speaking opportunity. This procedure also facilitates full debate in committee of the whole.

If a committee reports progress (see below), which means, in effect, that the consideration of the matter before it is adjourned, every senator, including a senator who has spoken for 30 minutes continuously, has renewed speaking opportunities when the committee resumes consideration of that matter. If the sitting of a committee is suspended, a senator speaking at the time of the suspension has the right to continue when the sitting is resumed for the balance of the time available to the senator.

### **Report of committee**

When a committee of the whole has considered and made decisions on matters referred to it, the committee reports to the Senate, that is, the President resumes the chair, the Senate resumes, and the Chair of Committees reports what the committee has done (SO 148(1)).

The report of a committee is, in effect, a recommendation to the Senate as to the action the Senate should take in relation to a matter. The Senate may endorse the report of a committee, by a resolution that the report of the committee be adopted, and decisions of the committee then become the decisions of the Senate. The Senate may disagree with the decisions of a committee, or may agree to such decisions with amendments. It may refer the matters under consideration back to the committee of the whole for further consideration, or it may avoid coming to a decision on the report of a committee by postponing consideration of it (SO 148(3)). (For the recommittal of bills see Chapter 12, Legislation, under Recommittal on report and Third reading.)

### **Reporting progress**

The equivalent of adjourning consideration of a matter in committee of the whole is to report progress. The committee reports to the Senate that the committee has considered the matter referred to it, has made progress, and seeks leave to sit again at some future time for further consideration. The Senate then normally, by motion, gives the committee leave to sit again at a later time, and consideration of the matter in committee of the whole then becomes an order of the day for that later time.

A motion to report progress and seek leave to sit again may be moved at any time in committee by any senator, but subject to the 15 minute rule concerning the repetition of such motions. The motion to report progress is not debatable (SO 148(2), 144(6)).

Words may be added to the motion to report progress to indicate that deferral of consideration of the matter before the committee is sought for a particular purpose. For example, consideration of a bill may be deferred until a minister provides answers to questions or relevant documents. By adopting the committee's report the Senate endorses the committee's decision that the matter be deferred for the specified purpose (20/5/1975, J.655-7).

### **Interruption of committee**

Committee of the whole proceedings may also be interrupted if the Senate has ordered that another matter is to be considered at a specified time, either by the standing orders or any other order of the Senate. At the specified time the committee reports to the Senate, and the resumption of the deliberations of the committee of the whole automatically becomes an order of the day for a future time (SO 146(2), 68).

For the limitation of debate on bills in committee, see Chapter 12, Legislation, under Limitation of debate: urgent bills.

### **Instructions to committees**

By motion on notice, moved in the Senate, a committee of the whole may be given an instruction. Such an instruction may empower a committee already appointed to consider matters not otherwise referred to it or extend or restrict its order of reference, or may direct the committee to deal with the matters referred to it in a particular way (SO 149, 151). As explained

in Chapter 12, Legislation, under Instructions to committees of the whole, instructions to committees are of limited utility and are therefore seldom moved.

### **Matters of privilege**

Standing orders 81 and 197 contemplate that a matter of privilege arising suddenly in relation to proceedings before the Senate may be raised and dealt with at once, rather than by the more deliberate process provided by standing order 81 (see Chapter 2, Parliamentary Privilege, under Raising of matters of privilege). A matter of privilege raised in committee, however, would have to be reported to the Senate before it could be determined.

