

立法會 *Legislative Council*

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Paper for the Committee on Rules of Procedure meeting on 29 January 2013

Rules of Procedure and practices on the handling of proposed amendments to bills and discussions in committee of the whole Council

Purpose

This paper sets out the following information –

- (a) the relevant Rules of Procedure ("RoP") and practices of the Legislative Council ("LegCo") on the handling of proposed amendments to bills and those that apply to discussions in committee of the whole Council;
- (b) a summary of the views and suggestions given by Members in relation to these rules and practices at the Committee on Rules of Procedure ("CRoP") meetings on 8 May 2012 and 19 June 2012; and
- (c) the relevant rules and practices of the House of Commons of the Parliament of the United Kingdom ("UK"), the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia, the House of Representatives of the Parliament of New Zealand, and the Senate and the House of Representatives of the United States ("US") Congress.

Background

2. At the House Committee meeting on 27 April 2012, Members noted that two Members had given notices to move a total of 1 306 Committee stage amendments ("CSAs") to the Legislative Council (Amendment) Bill 2012 ("LegCo Bill") and the indication of a Member of his intention to propose over 1 000 amendments to the Copyright (Amendment) Bill 2011. After discussion, Members decided to request the Administration to defer the resumption of Second Reading debate on the Copyright (Amendment) Bill 2011. Members also agreed that the CRoP should be requested to study the issue of the handling of voluminous amendments to bills by making reference to the relevant rules and practices of overseas parliaments. Subsequently, CRoP discussed at its meeting on 8 May 2012 the issue with reference to the relevant rules and practices of the parliaments in the UK, Canada, Australia and New Zealand.

3. At the House Committee meeting on 18 May 2012, Members decided that CRoP should be requested to discuss ways to follow up matters relating to the decision of the President to end the joint debate at the Committee stage of the LegCo Bill at the Council meeting of 16 May 2012 by invoking Rule 92 of RoP. Members also requested the Secretariat to liaise with the President on identifying an appropriate forum for Members to hold dialogue with the President on the relevant matters. A CRoP member also wrote to the CRoP Chairman on 7 June 2012 requesting that CRoP discuss the President's power to invoke Rule 92 of RoP to end the joint debate at the Committee stage of the LegCo Bill. Pursuant to its decision on 12 June 2012, CRoP held a meeting on 19 June 2012 to discuss current rules governing amendments to bills and rules relating to speaking at Committee stage. The President and all other Members were invited to attend the meeting¹. A summary of the discussion at the meeting was issued to Members after the meeting².

4. At the CRoP meeting on 19 June 2012, CRoP members requested the Secretariat to conduct certain studies for follow-up by CRoP of the Fifth LegCo. One of the suggested studies is to review Rules 38(1)(a) and 57(4) of RoP to deal with filibuster³. This paper seeks to provide relevant information to facilitate CRoP to follow up the matter.

¹ A total of 15 Members including the President, 10 CRoP members and 4 non-CRoP members attended the CRoP meeting held on 19 June 2012.

² See CROP 59/11-12, which is appended to the progress report of CRoP for the period from July 2011 to July 2012.

³ The other two suggested studies are (a) to review the procedure for invoking Rule 92 of RoP; and (b) to examine the relationship between the power to invoke Rule 92 of RoP by the President to curtail a debate and the constitutional powers and functions of the President to preside over the meetings of the Council under Article 72 of the Basic Law.

Current rules and practices of LegCo on the handling of proposed amendments to bills and discussions in committee of the whole Council

Rules of Procedure and practices on handling amendments proposed by Members to bills

5. Rule 57 of RoP stipulates the notice requirement and other requirements on amendments relating to a bill. It is the normal practice of LegCo that upon receipt of the notice from a Member to move CSAs, the Secretariat will in tandem consult the views of the Law Draftsman on the drafting style and format of the CSAs and invite the relevant Bureau / Department to give views on the proposed amendments against the provisions in Rule 57(4) and (6) of RoP. The comments, if any, from the Law Draftsman will be conveyed to the Member for his or her consideration of making necessary revisions. If the comments from the relevant Bureau / Department point to the possibility that the CSA(s) proposed by a Member is / are not in compliance with any provision in Rule 57(4) and (6) of RoP, the Secretariat will inform the Member for a response.

6. The Administration's views on the CSAs, the Member's response, if any, and other relevant materials will be submitted to the President to assist him in considering whether the CSAs proposed should be admitted for printing on the Agenda. The Secretary General, the Legal Adviser, Assistant Secretary General 3 and other staff concerned will provide the President with assistance that he may need for ruling on the admissibility of the CSAs proposed. A ruling will be made by the President regarding his decision on the admissibility of the CSAs proposed. In some cases, particularly when there are differences in opinion between the Administration and the Member(s) concerned, the President will issue to Members his ruling in writing which will be made available on LegCo's website.

7. At the CROp meeting on 8 May 2012, some CROp members expressed the view that Rule 57(4)(d) of RoP⁴ could have been used to rule out the over 1 300 CSAs proposed by two Members on the LegCo Bill. In this regard, CROp noted that there was no precedent in LegCo where the President had ruled any CSA out of order on grounds that it was frivolous or meaningless.

⁴ Under Rule 57(4)(d) of RoP, an amendment which is in the opinion of the Chairman frivolous or meaningless may not be moved. Based on the Secretariat's records, a provision with the same wording had been present in the Standing Orders of the pre-1997 Legislative Council since 1968 (1968 version, SO 45(4)(d)).

8. At the CRoP meeting on 19 June 2012, the President pointed out that although the over 1 300 CSAs when taken together could be regarded as frivolous or meaningless, each of the CSAs when taken individually might serve a particular purpose as explained by the Members proposing the CSAs. Hence, unless and until rules were provided in RoP to apply the restriction against a frivolous or meaningless amendment under Rule 57(4)(d) of RoP also to a series of amendments to a bill, there was no option but to allow these CSAs to be moved.

Rules of Procedure and practices on discussions in committee of the whole Council

9. When a motion for the Second Reading of a bill has been passed in Council, the bill shall stand committed to a committee of the whole Council⁵. The Committee shall go through and vote on each and every clause of as well as amendment to the bill. Rule 34(4) of RoP, by virtue of Rule 58(3) of RoP, applies to the discussions of amendments to a bill in a committee of the whole Council. Under Rule 34(4) of RoP, the President or Chairman may allow a joint debate on a motion (clause) and its amendments. In addition, under Rule 58(2) of RoP, where there is a series of interdependent amendments, the Chairman may, in order to save time and avoid repetition of arguments, allow a single discussion in relation to those amendments and, if necessary, change the order of consideration as provided in Rule 58(5) and (7) of RoP. It is also the practice that the Chairman may allow a joint debate on (a) a series of clauses without amendments or (b) a series of clauses together with the respective amendments, where the clauses or amendments are not necessarily interdependent in either case, to enable effective use of the Council's time.

10. Rule 38(1) of RoP provides that a Member may not speak more than once on a question except in certain circumstances as specified under the provision, and speaking in a committee of the whole Council is one of those specified circumstances (Rule 38(1)(a))⁶. Under Rule 36(5) of RoP, when speaking in a committee of the whole Council, a Member shall not without the permission of the President or the Chairman make a speech lasting more than 15 minutes. However, there is no limit specified in RoP on the total amount of

⁵ Under Rule 55 of RoP, other than a committee of the whole Council, the Council may on a motion moved by a Member commit the bill to a select committee or the President may direct that the bill be committed to a select committee. Since the First LegCo, there has not been any bill committed to a select committee.

⁶ The corresponding provision in the Standing Orders of the pre-1997 Legislative Council (1968 version) (SO 28(1)(a)) was that "a Member may not speak more than once on a question except in committee; or". On 28 July 1995, the provision was amended to "committee of the whole Council; or" (Rule 38(1)(a)) to ensure clarity.

time or the number of times that a Member may speak during the discussions in a committee of the whole Council. The mechanism of the House Committee making recommendations as to time of speaking on a motion or amendment to a motion provided under Rule 37 of RoP does not apply to the discussions in a committee of the whole Council.

11. At the CRoP meeting on 19 June 2012, the President pointed out that the rule (i.e. Rule 38(1)(a) of RoP) allowing Members to speak more than once on a question in committee of the whole Council was to serve the objective of facilitating a proper debate. However, this intent was not made clear in the rule. The President suggested that CRoP should review the rule to make clear its intent of serving a meaningful debate as well as to avoid filibustering by restricting the number of times or setting a time period that a Member could speak on a question at Committee stage. In his view, imposing such limits on the occasions when a Member might speak at Committee stage could not be said to be suppressing the rights of Members to speak, because if this was the case, permitting Members to speak only once in other proceedings of the Council could be said to have the same effect. Furthermore, imposing these limits might be conducive to helping Members to pace their delivery of speeches at the Committee stage.

12. Extracts of the relevant Rules of RoP are in **Appendix I**. The President's written ruling on closing the joint debate at the Committee stage of the LegCo Bill under Rule 92 of RoP at the Council meeting of 16 May 2012 is in **Appendix II**.

Views of Members on the need or otherwise to amend RoP to deal with filibustering tactics

13. At the CRoP meetings on 8 May 2012 and 19 June 2012, Members expressed divided views on whether there was a need to amend RoP to deal with filibuster. Some Members indicated that they would not agree to any move to amend RoP to prevent filibuster as the rights of the minority must be protected before universal suffrage was introduced. Some other Members expressed concern that although the rights of the minority to express their views must be protected, this did not mean that this should be achieved at the expense of the efficient conduct of business of the Council.

14. The following specific suggestions were made by individual Members at the CRoP meeting on 19 June 2012 –

- (a) consideration be given to adopting in LegCo the arrangements in the House of Commons of the Parliament of Canada of empowering the Speaker to select and group amendments to bills that may be moved in the House (paragraph 29 refers);
- (b) consideration be given to applying the restriction against a frivolous or meaningless amendment under Rule 57(4)(d) of RoP also to a series of amendments to a bill;
- (c) Rule 38(1)(a) of RoP be reviewed; and
- (d) consideration be given to providing for a procedure in RoP similar to the "allocation of time motion" in some overseas parliaments.

Relevant rules and practices of selected overseas parliaments

15. This part provides a summary of the relevant rules and practices in the House of Commons of the Parliament of the UK, the House of Commons of the Parliament of Canada, the House of Representatives of the Parliament of Australia, the House of Representatives of the Parliament of New Zealand, and the Senate and the House of Representatives of the US Congress. The law-making process varies among the selected overseas parliaments. Please refer to **Appendix III** for an overview of the various stages that a bill usually goes through in the respective parliaments. The focus of this part is on the stage where a bill is considered in detail at sittings of the House (including Committee of the whole House) or Senate, as this stage is comparable to the Committee stage of a bill in LegCo.

16. For Members' easy reference, summary tables on the relevant rules and practices of the selected overseas parliaments are given in **Appendix IV** regarding the following matters –

- (a) handling of Members' amendments to bills (**Table 1**);
- (b) speaking time limits (**Table 2**);
- (c) closure / cloture motion (**Table 3**); and
- (d) mechanisms to set time limits for the scrutiny of bills (**Table 4**).

House of Commons of the Parliament of the United Kingdom

17. In the UK House of Commons, after its second reading, a bill is committed to a committee for consideration clause by clause. Bills are normally committed either to a Committee of the whole House⁷ or (more usually) to a public bill committee, or they may be divided between the two kinds of committee. Less frequently, a bill may be committed to a select committee or a joint committee of the House of Commons and House of Lords.

18. If a bill is amended at the committee stage⁸, it is reprinted and allocated a new bill number before progressing to the report stage. The report stage takes up the time on the floor of the House. At this stage, the bill is considered as a whole rather than clause by clause, and the House does not consider those clauses and schedules to which no amendments have been tabled. The report stage provides a further chance to consider amendments, new clauses and, for Members not in the committee, to propose changes. While amendments which were rejected or withdrawn in committee may be moved again, and attempts may be made by amendments to restore the original text of the bill, the power of selection of amendments conferred upon the Speaker (details set out in the succeeding paragraph) is a check upon excessive repetition of debates which have already taken place in committee⁹.

UK – Handling of amendments to bills

19. The Speaker¹⁰, who generally presides the House at the report stage of a bill, and the Chairman and Deputy Chairmen of Ways and Means in a Committee of the whole House¹¹ have absolute discretion on whether amendments to bills or to motions before the House should be debated and voted upon (Standing Order ("SO") 32). According to *Erskine May Parliamentary Practice ("Erskine May")*, the power to select amendments

⁷ In recent years, bills that have had their committee stage in Committee of the whole House are generally of the following categories: bills of major constitutional importance; emergency and other expedited legislation; bills of a very uncontroversial nature; and private Members' bills which are unopposed and of which all the stages are taken without debate.

⁸ If a bill has been dealt with by a Committee of the whole House, and has not been amended, it progresses immediately to the third reading without a report stage.

⁹ *Erskine May Parliamentary Practice (24th edition)*, p 588

¹⁰ The Speaker presides over the House. In the Speaker's absence, the Chair of the House is taken up by the Chairman of Ways and Means, or in his absence, by a Deputy Chairman of Ways and Means. (see *Erskine May Parliamentary Practice (24th edition)*, p 66)

¹¹ The Chair in a Committee of the whole House is generally taken by the Chairman of Ways and Means, or in his absence by one of the Deputy Chairmen. (see *Erskine May Parliamentary Practice (24th edition)*, p 66)

includes the power to select amendments proposed to be moved to an amendment and to reject a sole amendment. Selection should be made in such a way as to bring out the salient points of criticism, to prevent repetition and overlapping (including repetition, without good cause, of debates at a previous stage of a bill), and where several amendments deal with the same point, to choose the more effective and the better drafted. The Speaker or Chair does not give reasons for not selecting an amendment¹².

20. According to *Erskine May*, there are some special rules established by practice for determining whether an amendment to a bill is out of order. For example, an amendment is out of order if it is irrelevant to the subject-matter or beyond the scope of the bill; governed by or dependent upon amendments which have already been negatived; or inconsistent with, or contrary to, the bill as so far agreed to by the House. If an amendment would lead to a clause unintelligible, ungrammatical, or the amendment itself is incoherent or inconsistent with the context of the bill, it is out of order. Furthermore, amendments which are vague, trifling or tendered in a spirit of mockery are held to be out of order.

21. The Speaker or Chair may permit debate to range over several amendments which are linked or raise different aspects of the proposal under consideration. This grouping of amendments for debate is designed to prevent repetition. The Speaker or Chair may at his discretion allow separate divisions on one or more of the subsequent amendments in the groups with the desire of Members being taken into consideration. However, it is also guided by the need so far as possible to encourage consistency in the subsequent decisions¹³.

UK – Speaking time limits

22. A Member is allowed to speak only once to a question in most circumstances. However, SO 76 provides that when considering a bill in the report stage, the restriction against speaking more than once does not apply to the Member in charge of the bill or the mover of any amendment or new clause or schedule in respect of that amendment. When a bill is considered in Committee of the whole House, Members are entitled to speak more than once to the same question¹⁴.

23. Under SO 47(1), the Speaker may specify a time limit for Members to speak in a debate. The Speaker may at any time make subsequent

¹² *Erskine May Parliamentary Practice (24th edition)*, pp 464-465

¹³ *Erskine May Parliamentary Practice (24th edition)*, pp 574, 588

¹⁴ *Erskine May Parliamentary Practice (24th edition)*, pp 568, 588

announcements to vary the time limit. Where such time limitation has been announced, SO 47(3) provides that "speeches by a Minister of the Crown, Members speaking on behalf of the Leader of the Opposition, and not more than one Member nominated by the leader of the second largest opposition party shall be limited to twenty minutes".

UK – Closure motion

24. The closure motion was incorporated into the Standing Orders on 18 March 1887. Under SO 36(1), a Member may move a motion to bring an end to a debate. Under SO 29, a Member may move a motion to "[t]hat the question be now proposed", when a Member is in the course of making a motion or moving an amendment at any stage of proceedings on a bill. Under both SOs 36 and 29, when a closure motion is proposed, that question must be put forthwith, without amendment or debate, unless it appears to the Speaker or Chair that the motion is an abuse of the rules of the House or an infringement of the rights of the minority. Under SO 37, if a division is held, a closure motion can only be accepted when not fewer than 100 Members voted in the majority in support of the motion.

UK – Allocation of time motion

25. Under SO 83, a Minister may move a "guillotine" motion, formally known as an "allocation of time" motion, to ensure that certain stages of a bill are completed by a certain date or within a fixed number of sittings. The motion can be debated for a maximum of three hours before the Speaker puts the question to vote. Since the guillotine motion was first employed in 1887¹⁵, the use of the guillotine has been controversial because it is regarded as capable of upsetting the balance between the claims of business and the rights of debate¹⁶.

UK – Programme motion

26. In July 1997, the newly established Modernisation Committee published a report¹⁷ on the "Legislative Process". The report comments on the

¹⁵ The guillotine was first employed in 1887 during the scrutiny of the Criminal Law Amendment (Ireland) Bill after the bill had occupied the House for 35 days, with some sittings extending through the night.

¹⁶ *Erskine May Parliamentary Practice* (24th edition), p 468

¹⁷ Modernisation Committee. (29 July 1997) "Modernisation of the House of Commons – First Report: Legislative Process" (HC 190 1997-98). Available at: <http://www.publications.parliament.uk/pa/cm199798/cmselect/cmmodern/190i/md0102.htm> [Accessed 8 January 2013]

problem of guillotines that "[t]he Government has then been forced to bring in a guillotine which has often been draconian, as a result of which large sections of the Bill have not been considered". In an attempt to moderate the harshness of the guillotine, the House has in recent years moved towards more general programming of legislation.

27. Effective in October 2004, a programme motion may be moved under SO 83A by a Minister if notice is given before the bill's second reading. The motion contains an outline of the timetable for the future stages of the bill. The motion is not debatable and must be put immediately following the second reading of the bill. While a programme motion usually specifies a date by which proceedings in a public bill committee must be concluded and the total number of days available for debate on a bill on the floor of the House, the detailed timetable for those proceedings would be determined through the usual channels¹⁸. Where proceedings on a bill in the report or third reading stages are subject to a programme order, SO 83B provides that a Programming Committee¹⁹ may be established for the bill to consider the timetable and makes a report for the House's decision.

House of Commons of the Parliament of Canada

28. In the Canadian House of Commons, after a bill has been examined clause by clause in a committee, the bill is reported by the committee and considered again by the whole House. At this stage, i.e. report stage, Members may propose amendments to the bill. At the report stage, a bill is examined as a whole and not clause by clause as is the case at committee stage²⁰.

Canada – Handling of amendments to bills

29. The Speaker is given the power to select or to combine amendments or clauses to be proposed to a bill at the report stage (SO 76(5)). As a general principle, the Speaker seeks to forestall debate on the floor of the House which

¹⁸ The term "usual channels" describes the working relationship of the Whips from the different parties and the leaderships of the Government and Opposition parties. The term refers to arrangements and compromises about the running of parliamentary business agreed behind the scenes.

¹⁹ The Programming Committee consists of the Chairman of Ways and Means, who is chairman *ex officio*, and not more than eight other Members nominated by the Speaker. The quorum is four.

²⁰ *House of Commons Procedure and Practice (2nd edition, 2009)*, "The Legislative Process – Admissibility of Motions in Amendment", ch 16

is simply a repetition of the debate in committee²¹. The House resolved in 1986 to append a note to the Standing Orders specifying certain guidelines for the Speaker in selecting amendments. According to the note, the Speaker will not select for consideration any motion previously ruled out of order in committee, unless the reason for its being ruled out of order was that it required a recommendation of the Governor General. A motion previously defeated in committee will normally not be selected unless the Speaker judges it to be exceptionally significant for further consideration.

30. In the late 1990s, the House was faced with several bills with hundreds of amendments, the majority of which were concocted for the sole purpose of prolonging the proceedings at the report stage. To address these procedural controversies, the House adopted in 2001 an additional note to instruct the Speaker not to select for debate a motion or series of motions of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage, and in exercising this power of selection, the Speaker should be guided by the practice followed in the UK House of Commons²².

31. It is the practice that the Speaker informs the House of the motions that he or she has selected and grouped for debate as well as the voting arrangements and, where applicable, of the motions that have not been selected with reasons stated²³. Under SO 10, the Speaker's rulings are not subject to appeal to the House²⁴.

Canada – Speaking time limits

32. SO 76(7) prohibits individual Members from speaking more than once on any report stage motion or grouping of motions. When the report stage begins, the first speaker of each recognized party²⁵ is accorded 20 minutes, while the rule imposes a 10-minute limit on all subsequent speeches.

²¹ *House of Commons Procedure and Practice (2nd edition, 2009)*, "The Legislative Process – Power of the Speaker to Select Amendments", ch 16

²² *Annotated Standing Orders*, pp 262-264

²³ *Annotated Standing Orders*, p 264

²⁴ *Annotated Standing Orders* (p 24) states that "[u]ntil 1965, it was possible for any Member who disagreed with a Speaker's decision on a question of order to appeal it immediately to the House; i.e., to move a non-debatable motion on the question of whether or not the House upheld the Speaker's ruling. appeals were finally abolished in June 1965".

²⁵ A recognized party is defined as one which has 12 or more Members in the House of Commons of the Canadian Parliament.

Canada – Closure motion

33. In December 1912, the Canadian government introduced a resolution on the Naval Aid Bill which triggered a prolonged debate in a two-week continuous sitting. On a motion brought forward by the government, the Standing Orders were amended in April 1913 to introduce the procedure for closure motion²⁶.

34. Under SO 57, only a Minister may move a motion of closure which is neither debatable nor amendable. Once moved, there will be a question and answer period of not more than 30 minutes during which Members may put brief questions to the Minister on the reasons for the use of the motion of closure. The motion of closure will then be put to vote. A simple majority of Members voting is required to adopt the motion. If closure is adopted, Members entitled to speak on the closed business, including the Prime Minister and the Leader of the Opposition, are limited to 20 minutes each and can speak only once during the entire debate being closed. All questions necessary to dispose of the closed business will be put no later than 8:00 pm, or as soon as possible thereafter so as to allow any Member who has been called to speak before 8:00 pm to finish speaking.

Canada – Allocation of time motion

35. In mid 1950s, closure had come to be perceived as somewhat inflexible²⁷ for the demands of a modern parliamentary democracy and inadequate as a tool with which to conduct the business of the House. Deliberations began with a view to identifying ways in which the time of the House could be allotted for the consideration of specific items of legislation. In 1969, the House adopted the "time allocation" mechanism²⁸.

36. SO 78 provides the mechanism for restricting the length of debate on bills through a "time allocation" motion moved by a Minister. Depending on the degree of acceptance among the representatives of the recognized parties, there are three scenarios to apply the mechanism, as follows –

²⁶ *House of Commons Procedure and Practice (2nd edition, 2009)*, "Parliamentary Procedure – The Standing Orders", ch 5, fn 41

²⁷ Due to the process of giving notice, moving the motion and voting on it must be repeated at every stage of a given bill. (see *House of Commons Procedure and Practice (2nd edition, 2009)*, "The Curtailment of Debate – Time Allocation", ch 14)

²⁸ *House of Commons Procedure and Practice (2nd edition, 2009)*, "The Curtailment of Debate – Time Allocation", ch 14

- (a) The first scenario is that there is an agreement by representatives of all parties on an allocation of time for the proceedings at any or all stages of a public bill (SO 78(1)). The motion for time allocation can be moved without notice.
- (b) The second scenario is that a majority of the representatives of the parties agree on an allocation of time for the proceedings at any one stage of a public bill. Although the motion can cover only one stage of a bill at a time, the Standing Orders provide that one motion can cover both report and third reading stages (SO 78(2)(a)). The motion for time allocation can be moved without notice.
- (c) If agreement cannot be reached under the first two scenarios, it comes to the third scenario that the motion can only apply to the stage of the legislative process in which the bill which is being considered. The time to be allotted is not less than one sitting day for any stage. If the motion for time allocation is carried, debate becomes subject to the time limits proposed by the motion (SO 78(3)(a)). Oral notice for the motion is required. Under this scenario, there shall be a period of not more than 30 minutes for Members to put brief questions to the Minister and the Minister may make a corresponding reply (SO 67.1(1)(a)).

37. If the motion for time allocation is carried, debate becomes subject to the time limits proposed in the motion. At the expiry of the time allocated, the Speaker puts every question necessary for the disposal of the bill to the vote.

House of Commons of the Parliament of Australia

38. In the Australian House of Commons, after second reading of a bill, the House or the Federation Chamber²⁹ proceeds to the detailed consideration

²⁹ Prior to 1994, the consideration in detail stage in the House was taken in a Committee of the Whole House. With the establishment of the Main Committee (now renamed "Federation Chamber"), Committee of the Whole House was abolished. The Federation Chamber is an extension of the Chamber of the House, operating in parallel to allow two streams of business to be debated concurrently. All Members are the members of the Federation Chamber. In respect of legislation, proceedings in the Federation Chamber are substantially the same as they are for the same stage in the House. If any business cannot be progressed by general agreement in the Federation Chamber, it is reported back to the House as "unresolved". (see *House of Representatives Practice (6th edition, 2012)*, "Legislation – Referral to Federation Chamber", p 359, "Legislation – Former committee of the whole", p 374; Chapter 14 of Standing Orders, SOs 183-198)

of the bill. The function of this stage is the consideration of the bill, if necessary, clause by clause and schedule by schedule³⁰.

Australia – Handling of amendments to bills

39. Amendments to bills are subject to the restrictions stipulated in the Standing Orders. An amendment should be within the title or relevant to the subject matter of the bill and is otherwise in conformity with the Standing Orders (SO 150(a)). An amendment which is substantially the same as one already negatived or contrary to a previous decision on a bill cannot be moved unless there has been a reconsideration of the bill (SO 150(e)). Furthermore, there are precedents where amendments that are ironical, or in conflict with the Constitution were ruled out of order³¹.

40. SO 149 specifies a strict order in which the parts of a bill should be considered. However, in the majority of instances leave³² is granted for a bill to be considered as a whole as provided in SO 149(b). Amendments may be moved to any part of the bill when the bill is considered as a whole. Leave may also be granted for parts of a bill to be considered together or amendments to be moved in groups.

41. The Speaker of the House or Chair of the Federation Chamber does not have power to select or group amendments for debate and voting. The Speaker or Chair decides whether amendments are in order based on the Standing Orders and having regard to precedents. When a bill is considered in the House after its second reading, a Member may declare his or her objection or dissent from the ruling of the Speaker by moving a motion of dissent pursuant to SO 87. If the motion is seconded, the Speaker will propose the question to the House and debate may proceed immediately.

Australia – Speaking time limits

42. Under SO 69, a Member may not speak a second or further time to a question except (a) during consideration in detail of a bill; or (b) during consideration of amendments to a bill made or requested by the Senate. SO 1 provides that for these two types of proceedings, each Member is allowed

³⁰ *House of Representatives Practice (6th edition, 2012)*, "Legislation – Consideration in detail", p 374

³¹ *House of Representatives Practice (6th edition, 2012)*, "Legislation – Inadmissible amendments", p 376

³² Under SO 2, "leave, by" means that no Member present objects.

unlimited number of times of speaking and each speech is allowed a maximum of five minutes.

Australia – Closure of question

43. The provision for the closure of a question was incorporated in the Standing Orders in 1905³³ but was not used until September 1909. Since then it has been utilized more frequently. The closure motion was moved as many as 41 times in one sitting in 1934 and 29 times on one bill in 1923. Over the years from 2001 to 2011, the number of motions on closure of question agreed to at House sittings ranges from 0 to 22 in each year.

44. Under SO 81, after a question has been proposed from the Speaker or Chair, a Member may move without notice a motion to put a question to vote (i.e. a motion for closure of question). The Speaker or Chair must immediately put the question to vote without debate or amendment. A simple majority is required to pass the motion. When the closure is agreed to, it applies only to the immediate question before the House or the Federation Chamber, and that question is then put immediately by the Speaker or Chair.

Australia – Allotment of time motion

45. Under SOs 82 to 85, a Minister may declare a bill to be urgent at any time and move without notice a motion to allocate time limits to the debates on the various stages of bills prior to the commencement of debates. The motion will be put to the vote immediately without debate. A simple majority vote is required to pass the motion. If the declaration of urgency is agreed to, the Minister may move a motion specifying the time for any stage of the bill, usually with specific dates for the termination of scrutiny or fixed hours allotted for each stage. The whole debate on the motion for the allotment of time may not exceed 20 minutes, each Member speaking being allowed five minutes³⁴. When the time for debate on the specific stage of the bill expires in accordance with the allotment of time motion, the debate is interrupted and the Speaker or Chair puts the question immediately before the House or the Federation Chamber and any other question necessary to conclude proceedings to the vote³⁵.

³³ According to *House of Representatives Practice* (6th edition, p 532, footnote 412), in 1905, the debate on the inclusion of the provision in the Standing Orders lasted over a week, and amendments proposing to give the Chair a discretion not to accept a motion of closure were defeated.

³⁴ SO 84(a)

³⁵ SO 85(b)

46. The above procedure (commonly known as "guillotine") was introduced to the House in 1918. The number of bills declared urgent increased considerably to a record of 132 bills in 1992. The use of guillotine declined significantly after the provision of increased debating time with the establishment of the Main Committee (now renamed "Federation Chamber") in 1994. Over the years from 2001 to 2011, the number of bills guillotined ranges from 0 to 19 in each year.

House of Representatives of the Parliament of New Zealand

47. In the House of Representatives of New Zealand, a bill is considered in detail in a Committee of the whole House after its second reading.

New Zealand – Handling of amendments to bills

48. Under SO 298(2), when a bill is considered in a Committee of the whole House, the Committee may make amendments that are relevant to the subject-matter of the bill, are consistent with the principles and objects of the bill, and otherwise conform to the Standing Orders and the practices of the House. According to *Parliamentary Practice in New Zealand*, an amendment is inadmissible if it is the same in substance as a previous amendment, inconsistent with the bill or a previous decision of the committee, or which is frivolous, vague or lacking legislative form.

49. When the Committee of the whole House considered the Local Government (Auckland Reorganisation) Bill in May 2009³⁶, a total of 30 046 amendments were lodged by Members of the Opposition. Government Members lodged amendments to omit the clauses proposed to be amended so as to render 29 084 amendments proposed by Members of the Opposition out of order, and moved closure motions on certain amendments proposed by Members of the Opposition to speed up the proceedings. In the end, 33 hours were spent by the House to pass the Bill. Following this incident and pursuant to a recommendation of the Standing Orders Committee, the House agreed that with a view to maximizing the time spent in debate, as opposed to voting, two

³⁶ The Government took urgency for the introduction and passing of the Bill, and thus, the Bill was not referred to a select committee for detailed consideration, but considered by the Committee of the whole House the next day after the first reading of the Bill.

new provisions be added under SO 303 (Consideration of amendments)³⁷ in October 2011.

50. One of the new provisions, SO 303(4), provides that the Chair, at his or her discretion, may put a single question on a group of amendments if (a) the amendments stand in the name of the same Member; (b) the amendments lend themselves to being grouped on account of their content or subject-matter, or because they form a single alternative proposition; and (c) grouping of the amendments is necessary to enable the committee's effective consideration of the bill. The other new provision, SO 303(5), states that where amendments are proposed that, in the opinion of the Chair, are the same in substance, the Chair may select amendments on which to put a question, in order to test the will of the committee.

51. The Deputy Speaker takes up the chair when the House goes into committee. No individual Member may appeal to the Speaker from a ruling of the Chair. Under SO 175, a motion may be moved that the Chair obtain the Speaker's ruling on a matter of procedure. There is no amendment or debate on the question. According to *Parliamentary Practice in New Zealand*, "Speakers have consistently ruled that they cannot alter a decision of the chairperson on a question of relevancy in debate or the admissibility of an amendment, whether or not they consider the chairperson to have been wrong. Such a decision could be reversed only by the House itself passing a motion following a notice of that motion having been given"³⁸.

New Zealand – Speaking time limits

52. SO 118(1) sets out the time limits of speeches and debates. In the Committee of the whole House, for each part or provision of a bill, a Minister or Member in charge of a bill is allowed multiple speeches of five minutes each, but normally not more than two consecutive speeches. Other Members can make no more than four speeches of five minutes each.

New Zealand – Closure motion

53. SO 133 provides that after a question is proposed by the Speaker or Chair, any Member, on being called to speak to that question, may move "That the question be now put". The Speaker or Chair will decide whether to put the

³⁷ In the Standing Orders of the House of Representatives (2008) of New Zealand, provisions on "Consideration of amendments" are set out in SO 297. In the 2011 version, the provisions are set out in SO 303.

³⁸ *Parliamentary Practice in New Zealand (3rd edition)*, "Committee of the Whole House – Chairpersons", ch 20, p 231

question to the House depending on whether he or she considers it reasonable to do so. Under SOs 134 and 135, this motion is non-amendable and non-debatable. The House will vote on the closure motion, which, if carried, would bring the debate in progress to an immediate conclusion even though there are still Members who wish to speak. All the amendments and the main question will be put to the vote. The closure motion in its present form was introduced in 1931. Because most debates in the House are time-limited, closure motions are principally used in the Committee of the whole House³⁹.

New Zealand – Limited-time debates

54. Where the Standing Orders prescribe the time allowed for a debate (whether by stating the time or limiting the number of speakers) or where the Business Committee⁴⁰ has used its power to prescribe the time, no closure motion may be accepted⁴¹. The Business Committee may use its power to determine the time to be spent on an item of business (SO 77(c)), how time on an item of business is to be allocated among the parties represented in the House (SO 77(e)), and the speaking times of individual Members on an item of business (SO 77(f)). According to *Parliamentary Practice in New Zealand*, "[w]hen the time allowed for a debate expires, the member speaking is immediately interrupted. There is no provision for an extension of the debate to permit that member's speech to be concluded"⁴².

New Zealand – Urgency motion

55. A Minister may move a motion, without notice, to accord urgency to certain business of the House under SO 55. There is no amendment or debate on the question, but the Minister must, on moving the motion, inform the House with some particularity of the circumstances that warrant the claim for urgency. A simple majority vote is required to pass the motion. Under SO 56, if the

³⁹ *Parliamentary Practice in New Zealand (3rd edition)*, "Termination of Debate – Closure", ch 17, p 199

⁴⁰ The Business Committee was established in 1995. Under SO 75, the committee is convened by the Speaker who is *ex officio* the chairperson of the committee. It is responsible for recommending a sitting programme to the House. Every party is entitled to be represented at each meeting of the committee by one Member nominated by its leader. The names of the Members nominated are to be given to the Speaker. Under SO 76, the Business Committee does not vote on any matters before it. It can take decisions only on the basis of unanimity or, if this is not possible, "near-unanimity". (see *Parliamentary Practice in New Zealand*, p 157)

⁴¹ *Parliamentary Practice in New Zealand (3rd edition)*, "Termination of Debate – Closure", ch 17, p 200

⁴² *Parliamentary Practice in New Zealand (3rd edition)*, "Debate – Time limits on the whole debate", ch 16, p 179

urgency of business is agreed to by the House, the business may be proceeded with to a completion at that sitting of the House. In other words, the normal time for the adjournment of the House is dispensed with and the House does not adjourn until consideration of that matter is completed. "Urgency" extends the sitting of the House indefinitely (but not beyond midnight on Saturday⁴³).

US Senate

56. In the US Senate, all Senators have traditional freedoms of unlimited debate and unlimited opportunity to offer amendments that, so far as is known, no other legislators worldwide possess. Furthermore, the Standing Rules of the Senate ("Senate Rules") even do not require that amendments be germane or relevant, except for general appropriation bills, budget measures, and matters under cloture and a few other bills pursuant to statutes⁴⁴.

US Senate – Handling of amendments to bills

57. According to *Riddick's Senate Procedure*⁴⁵, the Presiding Officer takes the initiative to rule out of order amendments that are improperly drafted. The Presiding Officer should also take the initiative to rule out of order amendments to the preamble to a resolution until after the adoption of the resolution. Furthermore, it is the duty of the Presiding Officer to hold out of order an amendment that would amend the language already agreed to, even when such amendment was specified in a unanimous consent agreement. The Presiding Officer should also hold out of order an amendment of a Senator to his or her own amendment unless that Senator has lost the right to modify it⁴⁶.

58. Any ruling by the Presiding Officer in response to a point of order made by a Senator is subject to an appeal. Unless the ruling is supported by a majority vote of the Senate, the decision of the Presiding Officer is overruled. This decision of the Senate becomes a precedent for the Senate to follow in its

⁴³ According to SO 46, "[t]he House must not sit on a Sunday".

⁴⁴ The Senate of the United States. *"Senate Legislative Process. Chapter 3: Senate Floor Procedure"*. Available at: http://www.senate.gov/legislative/common/briefing/Senate_legislative_process.htm [Accessed 9 January 2013]

⁴⁵ In the United States Congress, *Riddick's Senate Procedure* is a Senate document containing the contemporary precedents and practices of the Senate. It was named after Senate Parliamentarian Emeritus Floyd Riddick, and is updated periodically by the Senate Parliamentarian.

⁴⁶ *Riddick's Senate Procedure*, "Presiding Officer", p 1028

future procedure until altered or reversed by a subsequent decision of the Presiding Officer or by a vote of the Senate⁴⁷.

US Senate – Speaking time limits

59. Senate Rule XIX places no limit on the length of individual speeches or on the number of Senators who may speak on a pending question. However, the Rule also states that "no Senator shall speak more than twice upon any one question in debate on the same legislative day without leave of the Senate, which shall be determined without debate". This provision, commonly called the "two-speech rule", limits each Senator to making two speeches on a single question on the same legislative day⁴⁸.

US Senate – Cloture motion

60. Any debatable question that the Senate considers can be filibustered and, therefore, may be the subject of a closure motion, unless the time for debate is limited by the Senate Rules, by law, or by a unanimous consent agreement⁴⁹. Under paragraph 2 of Senate Rule XXII, with the signature of 16 Senators, a Senator may present a motion proposing "to bring to a close the debate upon [the pending question]", which is known as a "cloture motion".

61. The motion is read to the Senate, but the Senate then returns to whatever business it had been transacting. The Senate convenes on the day on which the cloture motion is submitted and on the following day. On the third calendar day, the Presiding Officer presents the cloture motion to the Senate for a vote. The Presiding Officer is required to direct that a quorum call takes place. When the presence of a quorum is established, the question will then be put to vote without debate. Since 1975, the number of votes required for passage of a cloture motion has been three-fifth of the Senators duly chosen and sworn (i.e. 60 Senators if there is no vacancy)⁵⁰.

62. In relation to the Senate's consideration of a bill or resolution, filibusters can happen at least on two occasions: first, a filibuster on the motion to proceed to the measure's consideration; and second, after the Senate agrees to this motion, a filibuster on the measure itself. Therefore, a cloture motion may need to be invoked first on the "motion to proceed", and once the Senate adopts

⁴⁷ *Riddick's Senate Procedure*, "Appeal", p 145

⁴⁸ Congressional Research Service. (29 Nov 2012) *"Filibusters and Cloture in the Senate"*, p 3

⁴⁹ *Ibid*, p 10

⁵⁰ *Ibid*, p 9

the motion to proceed, another cloture motion may need to be invoked on the measure itself⁵¹. Where a cloture motion on a bill is passed, consideration on the bill is limited to 30 additional hours, including time consumed by debate, roll call votes and quorum calls. During the 30-hour period, each Senator may speak for no more than one hour. The 30-hour period can be increased if the Senate agrees to a non-debatable motion for that purpose, which requires a three-fifth majority for it to pass. At the end of the 30-hour period or when no Senator requests to speak at an earlier time, the Senate shall proceed to vote on all questions to the final disposition of the bill.

63. In principle, a truly determined minority of Senators usually can delay for as much as two weeks the time at which the Senate finally votes to pass a bill that most Senators support⁵². As the support of three-fifths of Senators is required to pass a cloture motion, invocation of cloture almost always requires bipartisan support. Therefore, cloture is difficult to invoke. In addition, some Senators are reluctant to vote for cloture, even if they support the legislation being jeopardized by the filibuster, precisely because the right of extended debate is such an integral element of Senate history and procedure⁵³.

US Senate – Motion to table

64. The Senate often disposes of an amendment by agreeing to a motion to lay the amendment on the table, rather than by voting to agree to or not agree to the amendment. During a debate, a Senator may move to table the pending question, which is formally known as "to lay the question on the table", under paragraph 1 of Rule XXII. In the US Senate, to "table something" has the same meaning as "to kill it". This motion is not debatable and requires only a simple majority vote to be adopted. If the Senate agrees to a motion to table, the debate is brought to an end. For the purpose of overcoming filibuster, the chief use of the motion to table arises when filibuster is being conducted through the offering of potentially dilatory amendments and motions⁵⁴.

US Senate – Time agreements by unanimous consent

65. The practice of the Senate provides another channel for time control, other than under the Senate Rules, when considering bills. This is frequently

⁵¹ Ibid, p 10

⁵² Ibid, p 18

⁵³ Congressional Research Service. (1 Dec 2010) *"The Legislative Process on the Senate Floor: An Introduction"*, p 3

⁵⁴ Congressional Research Service. (29 Nov 2012) *"Filibusters and Cloture in the Senate"*, p 4

called "time agreements" under unanimous consent⁵⁵. These complex agreements are negotiated between the major political parties before a bill is introduced and have to receive the concurrence or acquiescence of each and every Senator. These agreements cannot be imposed by a vote.

66. The two essential features of time agreements are "prohibition on any amendments not listed in the agreement" and "strict limitations on the time available on every stage for debating the bill and every question that may arise during its consideration"⁵⁶.

67. The responsibilities of negotiating time agreement usually fall on the shoulders of the majority and minority leaders of the Senate. It has been a practice for some Senators to signify their objection to certain bills before the bills are brought to the Senate floor by the majority leader for consideration. By placing such an advance notice, it is often sufficient to force the bill's supporters to discuss with those who have voiced their objections to see how the bill can be amended in a way that satisfies their concerns and removes any danger of a filibuster.

US House of Representatives

68. In the US House of Representatives ("House"), most amendments proposed to a bill are offered by the Members in the Committee of the Whole House on the State of the Union (commonly known as "Committee of the Whole").

US House – Handling of amendments to bills

69. The main restriction on amendments is the germaneness requirement, which is embodied in the Rules of the House of Representatives ("House Rules")⁵⁷. The "Germaneness Rule", under clause 7 of Rule XVI, provides that "[n]o motion or proposition on a subject different from that under consideration shall be admitted under color of amendment". The rule is simple and

⁵⁵ From its beginning, the Senate has transacted much of its business by unanimous consent. The Senate's small size, few rules, and informality encouraged the rise of this practice. Two types of unanimous consent are prevalent in today's Senate. Simple unanimous consent requests deal with non-controversial matters. Complex unanimous consent agreements establish a tailor-made procedure for considering virtually any kind of business that the Senate takes up.

⁵⁶ Congressional Research Service. (1 Dec 2010) *"The Legislative Process on the Senate Floor: An Introduction"*, p 8

⁵⁷ Congressional Research Service. (2 Nov 2012) *"The Amending Process in the House of Representatives"*, p 7

straightforward in principle, but complex and sometimes difficult to apply in practice. Determining whether an amendment is germane can be the most challenging task in interpreting the House's legislative procedures⁵⁸.

70. There are several tests of germaneness of amendments. First, amendments must relate to the subject matter under consideration. Second, an amendment when considered as a whole should be within the jurisdiction of the committee reporting the bill. Another test is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill⁵⁹. If the purpose or objective of an amendment is unrelated to that of the bill, the amendment may be held not germane⁶⁰. An amendment must not only have the same end as the matter sought to be amended, but also must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended⁶¹.

71. The Chair usually does not rule an amendment out of order until after a Member makes a point of order against it, otherwise, an amendment is normally considered even though it violates some requirement of the House's legislative procedures⁶². Any Member may appeal the ruling of the Chair on a point of order against an amendment, in which case the House then decides by majority vote whether to sustain or overturn the ruling. Such appeals are rare, and virtually have never been successful⁶³.

US House – Speaking time limits

72. Before 1841, there was no limit on the time that a Member might occupy once in possession of the floor. Under modern practice, the duration of debate is limited pursuant to the House Rules, special orders of business and unanimous-consent agreements. Nowadays, for every important or

⁵⁸ Ibid, p 10

⁵⁹ For example, to a bill providing agricultural price supports to stimulate domestic orange production, an amendment restricting imports of oranges (with the jurisdiction of the Committee on Ways and Means) would not be germane.

⁶⁰ For example, to a bill providing fund for urban highway transportation systems, an amendment broadening the bill to include rail transportation would not be germane.

⁶¹ For example, if the purpose of a bill is to support the health of school children by mandating oranges in a school lunch program, an amendment providing free vitamin C supplements may be germane.

⁶² Congressional Research Service. (2 Nov 2012) *"The Amending Process in the House of Representatives"*, p 40

⁶³ Congressional Research Service. (2 Nov 2012) *"The Amending Process in the House of Representatives"*, pp 41-42

controversial piece of legislation, the Committee on Rules⁶⁴ (also known as "Rules Committee") will make a "special rule" that specifies the length of time for general debate and the restrictions that amendments are subject to before the bill is called up, debated and amended. A special rule is reported by the Rules Committee and adopted in the form of House resolution by a simple majority vote in order to go into effect⁶⁵.

73. When the House resolves itself into Committee of the Whole to consider a particular measure and amendments to the measure, it begins with a general debate which is governed by a special rule that specifies the length of the debate (typically, one hour). After the general debate, the amending process commences. The essential rule governing debate on amendments in Committee of the Whole is the "five-minute rule" (clause 5(a) of Rule XVIII) which provides that a Member who has offered an amendment is allowed five minutes to explain it. Another Member, who first obtains the floor, is allowed five minutes to speak in opposition to it. It implies that there should be only 10 minutes for debating each amendment⁶⁶.

74. However, debate on an amendment may be prolonged by offering "pro forma amendments" so as to obtain five minutes to speak. In theory, this motion is an amendment that proposes to strike out the last word of the measure under considered. In practice, a pro forma amendment is a well-accepted device by which Members secure time for debate. Therefore, it is not actually written out, no Member claims five minutes to speak against it, and the Committee does not vote on it⁶⁷.

75. The time for debating any amendment, whether substantive or pro forma, may be extended by unanimous consent.

US House – Closing debate

76. Pro forma amendments may be used to prolong the proceedings in the Committee of the Whole. To prevent filibustering by debating amendments at

⁶⁴ The Rules Committee is the mechanism that the Speaker uses to maintain control of the House Floor. Thus, it is also known as "The Speaker's Committee". The ratio of its members has traditionally been weighted in favour of the majority party. The jurisdiction of the Rules Committee is provided in clause 1(o)(1) of Rule X that "[r]ules and joint rules (other than those relating to the Code of Official Conduct) and the order of business of the House".

⁶⁵ Committee on Rules, U.S. House of Representatives. "Floor Procedure in the U.S. House of Representative", Section IX

⁶⁶ Congressional Research Service. (2 Nov 2012) *"The Amending Process in the House of Representatives"*, p 22

⁶⁷ Ibid, p 22

great length, after a Member has proposed an amendment and concluded his five minutes for debate and at any time that another Member does not control the floor, a Member (usually the majority floor manager) may move a motion to limit or close the debate under clause 8(a) of Rule XVIII. The motion may propose to close debate immediately or after a specified period of time. A simple majority is required to pass the motion. The Chair decides the allotment of remaining time for debate⁶⁸.

77. The special rules typically provide that, automatically following the disposition of all amendments, the Committee of the Whole rises and reports the bill back to the House with the recommendation that the bill, as amended, do pass. The House must vote on the amendments recommended by the Committee of the Whole (as only the House has the authority to "amend" the bill). Any Member has a right to demand a separate vote in the House on any amendment the committee has recommended. In some instances, requests for separate voting on amendments are a dilatory tactic. To avoid this situation, the special rules for considering measures typically provide that, after the Committee of the Whole rises, "the previous question"⁶⁹ shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit." The effect of the previous question is to preclude further debate and amendments⁷⁰.

Observations

Handling of amendments to bills

78. In the UK House of Commons and the House of Commons of Canada, the Speaker has the power to select amendments to a bill and to group amendments or clauses for debate and voting. In the House of Representatives of Australia and that of New Zealand, the Speaker has no power to select amendments; the main concern of the Speaker is to enforce the Standing Orders in admitting amendments. In the US Congress, the Senate Rules give great weight to the value of full and free deliberation and emphasize the right to

⁶⁸ U.S. House of Representatives. (2011) *House Practice*, ch 16, §55, pp 438-439

⁶⁹ A motion for the previous question is a non-debatable motion. It is a debate-limiting practice. When agreed to by majority vote, it precludes further debate on a measure, disallows the offering of any additional amendments, and usually leads to an immediate vote on the pending measure. (The Library of Congress, US. "Congressional Glossary" Available at: <http://thomas.loc.gov/home/definitions/index.html#previous> [Accessed 3 January 2013])

⁷⁰ Congressional Research Service. (2 Nov 2012) *The Amending Process in the House of Representatives*, p 26

debate in the US Senate. In the US House of Representatives, the Chair usually does not rule an amendment out of order until after a Member makes a point of order against it.

Speaking time limits at the Committee or report stage of a bill

79. In all the parliaments of the Commonwealth studied, Members are allowed to speak only once to the same question in most circumstances. However, such restriction is relaxed to a certain extent in the stage of considering a bill in detail. In Australia, Members are allowed to deliver multiple speeches when a bill is considered in detail by the House. In the UK, Members may speak more than once to the same question in Committee of whole House, but on consideration of a bill in the report stage by the House, only the Member in charge of the bill or the mover of any amendment or new clause or schedule in respect of that amendment may speak more than once. In New Zealand, on each part or provision of a bill, Members other than a Minister or Member in charge of a bill may make not more than four speeches of five minutes each in Committee of the whole House. In Canada, the restriction of "speaking not more than once" still applies to the report stage. In the US Senate, the "two-speech rule" governs that a Senator may not speak more than twice on any one question in debate on the same legislative day⁷¹. However, Senators may speak for as long as they wish⁷². In the US House of Representatives, debates on amendments generally proceed under the five-minute rule, under which a Member proposing an amendment and another Member in opposition are each entitled to five minutes of debate on the amendment.

Curtailement of debate on bills and mechanisms to set time limits for scrutiny of bills

80. The respective rules of all the parliaments studied allow curtailment of debate through a closure or cloture motion. The passage of a closure / cloture motion will ensure the end of debate, either immediately as in the case of the UK or after a specified period of time, e.g. after a further 30-hour debate in the US Senate. The closure / cloture motion is always decided through a vote. In Canada, Australia, New Zealand and the US House of Representatives, a simple majority is required to pass a closure motion, while in the UK and the US Senate, more than a simple majority is required for passage of the motion.

⁷¹ In US Senate, a legislative day ends with an adjournment. Whenever the Senate recesses overnight, rather than adjourning, the same legislative day continues into the next calendar day. A legislative day may therefore extend over several calendar days.

⁷² The record for the longest single speech remains that made by Senator Strom Thurmond of South Carolina on 28-29 August 1957, which consumed 24 hours and 18 minutes.

81. Apart from the closure / cloture motion, all of the selected overseas legislatures have established mechanisms to set time limits for the scrutiny of bills at various stages. Discussions between various political parties are often required to reach agreements on the time limits.

Advice sought

82. Members are invited to note the above information and consider whether any follow-up action is required.

Council Business Division 4
Legislative Council Secretariat
25 January 2013

Extracts from the Rules of Procedure of the Legislative Council

* * * * *

34. Manner of Debating Amendments to Motions

* * * * *

(4) The President or Chairman may allow a joint debate on a motion and its amendments.

* * * * *

36. Time and Manner of Speaking

* * * * *

(5) Subject to Rule 37 (Recommendations of House Committee as to Time of Speaking), a Member shall not, without the permission of the President or the Chairman, to be given only in exceptional circumstances, make a speech lasting more than 15 minutes.

* * * * *

38. Occasions when a Member may Speak more than once

(1) A Member may not speak more than once on a question, except –
(*L.N. 86 of 2000*)

(a) in committee of the whole Council; or

* * * * *

55. Committal of Bills

(1) When a motion for the second reading of a bill has been agreed to, the bill shall stand committed to a committee of the whole Council, unless –

(a) the Council, on a motion which may be moved without notice by any Member immediately after the bill has been read the second time, commit the bill to a select committee; or

- (b) the President is of the opinion that the bill would specially benefit or otherwise specially affect some particular person or association or corporate body, in which case he may direct that the bill be committed to a select committee.

* * * * *

57. Amendments to Bill

* * * * *

(4) The following provisions shall apply to amendments relating to bills:

- (a) An amendment must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates.
- (b) An amendment must not be inconsistent with any clause already agreed to or with any previous decision of the committee upon the bill.
- (c) An amendment must not be such as to make the clause which it proposes to amend unintelligible or ungrammatical.
- (d) An amendment which is in the opinion of the Chairman frivolous or meaningless may not be moved.
- (e) Where an amendment is proposed to be moved to a bill presented in both official languages the amendment shall be made to the text in each language unless it is an amendment that clearly affects the text in one language only. But an amendment which creates a conflict or discrepancy between the text in one language and the text in the other may not be moved.

* * * * *

(6) An amendment, the object or effect of which may, in the opinion of the President or Chairman, be to dispose of or charge any part of the revenue or other public moneys of Hong Kong shall be proposed only by –

- (a) the Chief Executive; or
- (b) a designated public officer ; or

- (c) a Member, if the Chief Executive consents in writing to the proposal.

* * * * *

58. Procedure in Committee of the Whole Council on a Bill

* * * * *

(2) Where there is a series of interdependent amendments, the Chairman may, in order to save time and avoid repetition of arguments, allow a single discussion in relation to those amendments and, if necessary, change the order of consideration as provided in subrule (5) or (7). *(L.N. 55 of 2011)*

(3) The provisions of Rule 34 (Manner of Debating Amendments to Motions) shall apply to the discussion of amendments to bills, with the substitution of the word “clause” for the word “motion”.

* * * * *

(5) Any proposed new clause shall be considered after the clauses of the bill have been disposed of and before consideration of any schedule of the bill:

Provided that a new clause proposed in substitution for a clause which has been disagreed to may be considered immediately after such disagreement.

* * * * *

(7) Schedules shall be disposed of in the same way as clauses and any proposed new schedule shall be considered after the schedules of the bill have been disposed of, and shall be treated in the same manner as a new clause.

* * * * *

92. Procedure if Rules of Procedure do not Provide

In any matter not provided for in these Rules of Procedure, the practice and procedure to be followed in the Council shall be such as may be decided by the President who may, if he thinks fit, be guided by the practice and procedure of other legislatures.

* * * * *

President's ruling on closing the joint debate at the Committee stage of the Legislative Council (Amendment) Bill 2012

At the Council meeting of 16 May 2012, when the Council was in committee of the whole Council holding a joint debate on the clauses in and proposed amendments to the Legislative Council (Amendment) Bill 2012 (“the Bill”), I noted Members’ sentiments on the progress of the joint debate which I also found to be much protracted. The joint debate started on 10 May 2012. By 4:30 am on 17 May 2012, as the meeting of 16 May 2012 continued to be held overnight, I noted that the joint debate had lasted for over 33 hours but I could not see any end to this debate due to the filibustering by a few Members. One of these Members, Hon WONG Yuk-man, made a declaration at the start of the joint debate of their filibustering on the Bill. In the 33 hours that followed, which spanned over seven meeting days, three Members persisted in making speeches: Hon WONG Yuk-man spoke for 20 times, Hon Albert CHAN spoke for 28 times, and Hon LEUNG Kwok-hung spoke for 27 times. These Members persisted in irrelevance or tedious repetition of their own or other Members’ arguments in their speeches, resulting in my drawing to their attention on over 75 occasions the need to comply with Rule 45(1) of the Rules of Procedure (“RoP”). Upon the raising of a point of order by Dr Hon Philip WONG, I indicated to the Council that the debate should be about to conclude and that I was inclined to allow the two Members and the public officer proposing amendments to the Bill to give concluding speeches and then end the debate. In response to Dr Hon Margaret NG’s request, I suspended the meeting to allow a private discussion to be held among Members before I made my ruling. The meeting was attended by me and some 30 Members coming from all parties and affiliations. I also had a separate meeting with Hon WONG Yuk-man and Hon Albert CHAN immediately following that meeting.

2. When the Council meeting resumed at 9:00 am, I gave my ruling as follows: Having heard Members’ views and following discussions with them, I decided that I would invite the two Members and the Secretary for Constitutional and Mainland Affairs (“the Secretary”), who were movers of the proposed amendments to the Bill, to speak within the period up to 12:00 noon, at which time I would end the joint debate. In response to Hon Andrew CHENG’s point of order, I agreed that I would also call on other Members to speak within the same period but priority would be given to those proposing amendments.

3. I agreed at the meeting that I would put my ruling into writing and provide the background and the considerations which had led to my ruling.

Background

4. The Bill was introduced into the Legislative Council (“LegCo”) for First Reading on 8 February 2012. The Bill consists of three clauses. Clause 1 deals with the short title and commencement. Clause 2 stipulates that the Legislative Council Ordinance is amended as set out in section 3. Clause 3 amends section 39 of the principal ordinance to the effect that a person who has resigned as a Member of LegCo is prohibited from standing for a by-election to be held within the six months after the resignation in the same term of office of LegCo. After the Second Reading of the Bill was moved, it was adjourned under Rule 54(4) of RoP. The Bill was then referred to the House Committee, which set up a Bills Committee to study it.

5. On 13 April 2012, the Bills Committee reported its deliberations to the House Committee (“HC”). Members noted that the Administration intended to resume the Second Reading debate on the Bill at the Council meeting of 2 May 2012 and raised no objection.

6. By the deadline for giving notice of amendment to the Bill, a total of 1 307 proposed Committee stage amendments (“CSAs”) were received - one from the Secretary which seeks to make a drafting improvement to clause 3 of the Bill, 74¹ from Hon WONG Yuk-man which seek to make improvements to the Chinese language used in the Bill, and 1 232 from Hon Albert CHAN, which can be grouped into six themes as follows:

- (a) that the disqualification does not apply if the resigning Member agrees to pay a certain percentage of the cost of the by-election;
- (b) that the disqualification does not apply if the Member has resigned because he is held in custody in a foreign country;
- (c) that the disqualification provision will expire after a certain period of time;
- (d) that the disqualification period is reduced from six months to a lesser period;
- (e) that the disqualification does not apply if the Member has resigned because he is diagnosed as suffering from a certain disease but is found later to have been wrongly diagnosed; and

¹ Hon WONG Yuk-man withdrew one of his 74 CSAs on 16 May 2012.

- (f) that the disqualification does not apply if only a certain number of functional constituency/geographical constituency Members resign.

7. Hon WONG Yuk-man and Hon Albert CHAN had made it very clear that the purpose of their proposing such a large number of CSAs is to prolong the proceedings of the Committee stage of the Bill so as to force the Administration to shelve the Bill. However, as none of the CSAs proposed by them has, in my opinion, breached the relevant rules (i.e. Rule 57) of RoP, I ruled that all their 1 306 CSAs are admissible under RoP and may be moved to the Bill.

Joint debate on clauses 1, 2 and 3

8. The Second Reading debate on the Bill resumed at the Council meeting of 2 May 2012 and the motion for Second Reading was passed. The proceedings on the Bill then entered into the Committee stage. At the start of the Committee stage, Hon Audrey EU moved to adjourn the proceedings of the committee of the whole Council under Rule 40(4) but the motion was negated. At this juncture, Hon WONG Yuk-man declared that the filibuster would begin.

9. The committee of the whole Council considered all the three clauses and 1 307 proposed amendments in a joint debate. The repetitive and irrelevant speeches made by three Members in the filibuster effectively prolonged the proceedings, hence causing the mounting up of unfinished business of the Council standing over from previous meetings and cancellation of numerous committee meetings scheduled for those days when the Council needed to continue to meet because of this Bill. Without seeing any prospect of the joint debate coming to an end, I consulted Counsel to the Legislature on the power of the President (and as Chairman of the committee of the whole Council) in conducting meetings. I also consulted the Clerk to LegCo on the usual ways to end a filibuster in other jurisdictions. Details of the advice given to me are set out in paragraphs 10 to 19 below. In reaching my decision, I had borne in mind my duty to strike a balance between the protection of the rights of individual Members to speak in the Council and the efficient conduct of business of the Council as a law making institution.

Functions and Powers of the President to conduct Council meetings

10. As President of LegCo, I understand that I have the duty to ensure the efficient conduct of meetings. There is no procedure in RoP to deal with

filibustering. Under Rule 38 of RoP, a Member may not speak more than once on a question, but committee of the whole Council is one of the excepted occasions. If any Member(s) persists in irrelevance or tedious repetition of arguments in committee of the whole Council, the Member can only be directed to discontinue under Rule 45(1) of RoP.

11. Regarding the power of the President to conduct meetings, Counsel to the Legislature has drawn my attention to the powers and functions of the President of LegCo under Article 72 of the Basic Law (“BL”) which includes to preside over meetings and to exercise other powers and functions as prescribed in RoP of LegCo. BL 75 provides that RoP of LegCo shall be made by LegCo on its own, provided that they do not contravene BL. I was advised by Counsel that as a matter of principle a person who is given the power and function to preside over a meeting he should also be vested with powers which are reasonably incidental to and necessary for the efficient conduct of business at the meeting unless there are clear provisions which circumscribe those incidental powers. However, each situation has to be considered on its own merits when it becomes necessary to invoke these incidental powers. Counsel also drew my attention to Rule 92 of RoP which suggests that, should I consider invoking any powers not provided for in RoP, I may consider practice and procedure of other legislatures for guidance before I decided what would be reasonably appropriate for LegCo.

12. I understood from the above advice that should I have difficulty in conducting a LegCo meeting in a reasonably efficient manner in accordance with BL 72 and where I considered that there was a matter which should have been provided for in RoP but had not been so provided, it would be for me to decide what practice and procedure should be followed. When making the relevant decision, I may be guided by the practice and procedure in other legislatures which are relevant to the matter under my consideration if I should think fit.

13. Counsel has also advised me that although there are no specific provisions on how that decision should be arrived at, it would be advisable for me to follow the normal principles of fairness which apply to the exercise of statutory powers. These principles include the taking into account only of all relevant considerations, but not those which are not relevant. What is relevant and what is not will depend on the particular circumstances before me, but there are two important principles which should help me make that judgment. They are my power and function to preside at a meeting which should be carried out reasonably efficiently but without acting contrary to RoP, and my duty to protect the interests of Members, especially those in the minority.

14. Of course, I always bear in mind the pledge that I made when I ran for the office of President of LegCo that I shall act impartially, and that I would strike a balance between maintaining order in meetings and the right of all lawmakers to speak when performing my duties as the President of LegCo.

15. Hon Alan LEONG has asked me to explain what the word “matter” in Rule 92 of RoP has meant to me when I applied this rule in my work. I must admit that I did not have the opportunity to study the scope of the word “matter” in Rule 92, nor had I sought specific advice of Counsel to the Legislature on the meaning of this word before I made my ruling on 17 May 2012. I recall that on two occasions recently, I had been advised about the application of Rule 92: one was on the procedure adopted for holding joint debates; and the other in the course of considering the admissibility of the 1 306 CSAs to the Bill as proposed by Hon WONG Yuk-man and Hon Albert CHAN. The procedure we now adopt for holding joint debates is not provided for in RoP but has been followed and developed over the years by practice as decided by former Presidents. In the latter case, when considering the admissibility of the CSAs proposed by the two Members, I had studied how far “an amendment” in the context of Rule 57(4)(d) where it is provided that “[an] amendment which is in the opinion of the Chairman frivolous or meaningless may not be moved” could also apply to “an amendment which forms part of a series of amendments” or “a series of amendments”, I noticed that in Canada, “a series of motions” appears alongside with “a motion”. That to me was a clear example that if it was the intention of RoP to apply Rule 57(4)(d) to “a series of amendments” it would have so provided accordingly. I agreed with the advice that it would not be right to expand the clearly defined scope of application of Rule 57(4)(d) to include “a series of amendments” by invoking Rule 92.

16. On the question of whether Rule 92 of RoP also applies to the Chairman of the committee of the whole Council, I note that under Rule 3 of RoP, the President, when present at a meeting of a committee of the whole Council, shall be the Chairman of the committee of the whole Council. I therefore consider that while I am chairing a meeting of a committee of the whole Council, the power given to me as President under Article 72(1) and thereby Rule 92 of RoP also applies.

Practice and procedure to deal with filibustering in other legislatures

17. The Clerk to LegCo has referred to me a paper presented to the Committee on Rules of Procedure (“CRoP”) for its meeting on 8 May 2012. The paper entitled “Handling of voluminous amendments to bills in selected overseas Parliaments” provides information on the relevant rules and practices of the parliaments in the United Kingdom (“UK”), Canada, Australia and New Zealand for the purpose of assisting members of CRoP in considering whether, and if so how, a situation where the number of CSAs proposed by Members is so large that it is creating practical difficulties in dealing with these amendments should be dealt with.

18. I note that the measures to handle voluminous amendments in these places cannot be applied by me without adaptation as the Speakers of these parliaments have the power to select amendments, which I do not have under RoP. Other measures such as closure motions to curtail debates are also not applicable as such motions, if allowed to be moved without the Chair being given the power not to allow such motions to be moved, may lead to abuse and may deprive Members in the minority of the opportunity to speak in the Council. Allocation of time orders (commonly known as “guillotines”) have been used by the UK Government since the 1880s to speed up a bill’s passage when it is unable to reach voluntary agreements through the usual channels² or when the Opposition engaged in what the Government perceived to be “blocking” tactics. I am aware of the different political structure in UK and a direct transfer of the concept to the Hong Kong setting may not be appropriate. These overseas practices may be useful for our future reference. I am aware that CRoP is currently studying the procedure of closure motions but it also appears to me that consensus on the subject is not likely to be achieved within the short timeframe I have in dealing with the present situation, noting the escalating time pressure to complete the legislative process of the large number of outstanding bills and motions before the Council prorogues on 18 July 2012.

19. The Clerk to LegCo had the benefit of seeking advice from Sir Malcolm JACK, former Clerk to the House of Commons of UK who was conducting a series of seminars for Members and staff of LegCo during the weeks when the filibustering was in action in the Council. Sir Malcolm JACK also found the situation most difficult as the provisions in our RoP do not cater for filibustering and considered that the ultimate decision on how to deal with

² The term “usual channels” describes the working relationship of the whips from the different parties and the leaderships of the Government and Opposition parties. The term refers to arrangements and compromises about the running of parliamentary business that are agreed behind the scenes.

the situation rest with the President, who has the duty to protect the Legislature as an institution.

My opinion

20. Having taken into account the advice given to me by Counsel to the Legislature and Clerk to LegCo, I am convinced that I have the power to conduct the meeting of the committee of the whole Council in a manner which ensures the efficient conduct of business and is also consistent with the general principles of protecting Members' rights to speak in the Council. This power given to me comes from BL 72, which includes RoP.

21. In curtailing a protracted debate, I consider that I must be satisfied that:

- (a) a wide and protracted debate has been allowed based on a liberal reading of rules on amendments;
- (b) all Members have been given the opportunity to speak; and
- (c) it is clear that certain Members will not stop the filibuster and will thereby bring Council business to a standstill.

In this respect, I consider that I have adopted the most tolerant way to allow those Members who took part in the filibuster to continue to speak and protract the debate to over 33 hours. I am convinced that there are reasonable grounds for me to put an end to the joint debate.

22. In determining the manner to end the joint debate at the Committee stage of the Bill, I consider it necessary to allow all Members who have not yet had the chance to speak at Committee stage to have the opportunity to speak, and to allow a reasonable timeframe for those Members who propose amendments to the Bill to round up their arguments. As regards the timeframe for the concluding speeches, it was my original intention to take into account the views of Members at the moment when the decision to end the debate was to be made.

Ruling made at the Council meeting of 16 May 2012

23. I have been reminded by Counsel to the Legislature and Clerk to LegCo of the need to take into account the views of Members before putting in

place any arrangements which are not provided for in RoP and which may have an impact on the future operation of the Council. I agree that this is the best way to exercise the power given to me under Rule 92 of RoP if circumstances permit.

24. The Council meeting of 16 May 2012 has developed to a point that, in my opinion, did not allow me to stall a decision from the chair any further. The raising on a point of order by Dr Hon Philip WONG and his proposal to stop the debate and put the clauses and amendments to vote at 4:30 am on 17 May 2012 made it necessary for me to come to a decision on how the protracted debate should be ended. I am grateful to the Members who attended the private meeting held during the suspension of the meeting in that morning for their views on the matter. It was through the open and frank dialogue with these 30 Members (who came from various political parties and affiliations in the Council) that I had come up with the final three-hour debating time for the Members and the Secretary to speak on the clauses and amendments before closing the debate. No objection was heard at the meeting. After this meeting, I had another private meeting with Hon Albert CHAN and Hon WONG Yuk-man to explain the reasons for my decision.

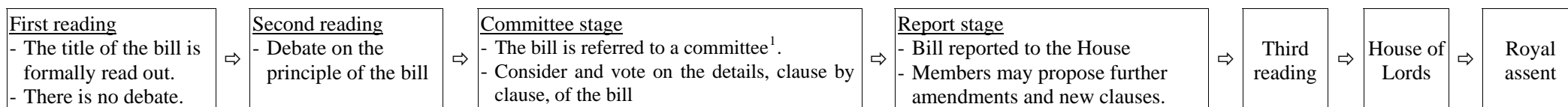
25. I understand that my action to end the filibuster at the Committee stage of the Bill at the Council meeting of 16 May 2012 has caused Members' concern. I believe that my decision to do so has achieved my objective to strike a balance between safeguarding Members' right to express their views and ensuring the smooth conduct of Council meetings. There is definitely room for improvement in the way I have consulted Members on the best way forward in dealing with matters not provided for in RoP. I understand that CRoP is currently conducting a study on the procedure to deal with filibuster and the President's power to invoke Rule 92. I am happy to attend a meeting of CRoP to exchange views with CRoP members as well as other Members on these subjects.

(Jasper TSANG Yok-sing)
President
Legislative Council

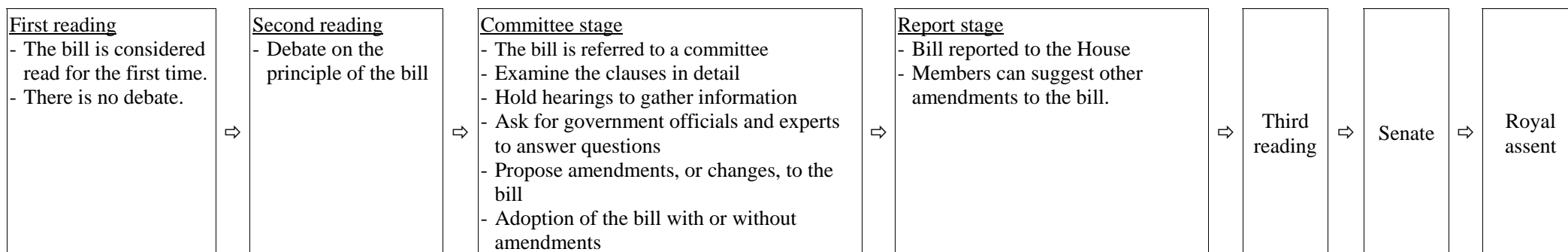
22 May 2012

Stages of the legislative process

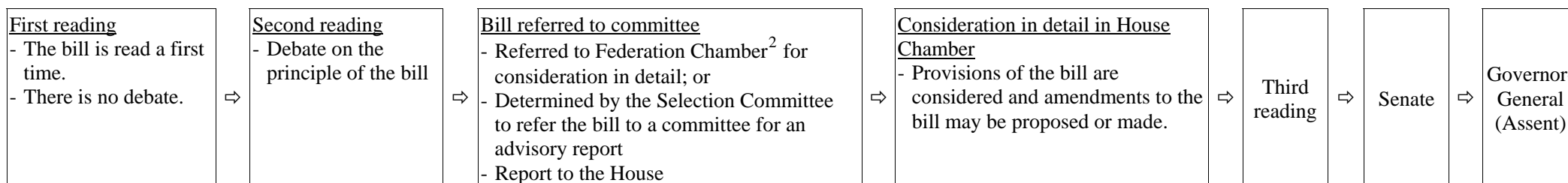
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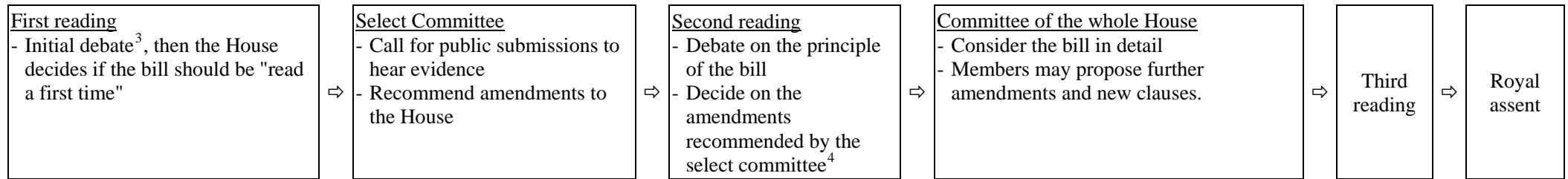


¹ All bills go to one of the four committee types: (1) Committee of the whole House; (2) public bill committee; (3) select committee; or (4) joint committee. In recent years, bills that have had their committee stage in Committee of the whole House are generally of the following categories: bills of major constitutional importance; emergency and other expedited legislation; bills of a very uncontroversial nature; and private Members' bills which are unopposed and of which all the stages are taken without debate.

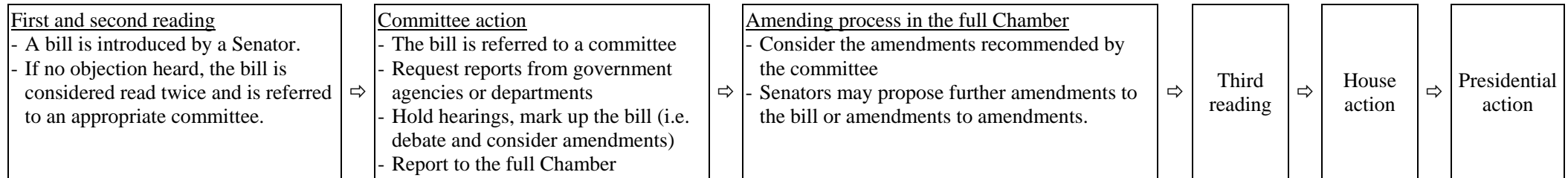
² The Federation Chamber is an extension of the Chamber of the House, operating in parallel to allow two streams of business to be debated concurrently. It is an alternative venue rather than an additional process. In respect of legislation, proceedings in the Federation Chamber are substantially the same as they are for the same stage in the House. All Members of the House are members of the Federation Chamber. A significant difference is the provision for the "unresolved question". If business cannot be progressed by general agreement, it is reported back to the House as "unresolved".

Stages of the legislative process (Continued)

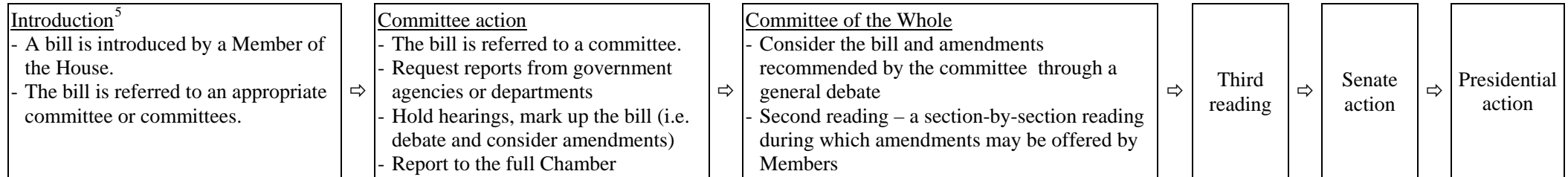
New Zealand



US Senate



US House of Representatives



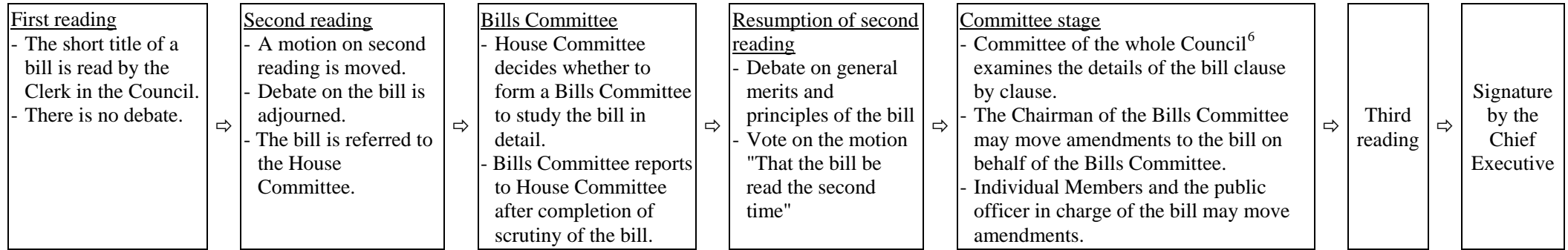
³ Up to two hours for Government bills and just over an hour for other bills.

⁴ At the end of the debate, any select committee amendments that did not have the unanimous support of the committee are the subject of a single decision on whether they should be adopted. All unanimous committee amendments are considered subsumed into the bill if the second reading is agreed.

⁵ In the House of Representatives, it is no longer the custom to read bills – even by title – at the time of introduction. The title is entered in the Journal and printed in the Congressional Record, thus preserving the purpose of the custom. The bill is assigned its legislative number by the Clerk.

Stages of the legislative process (Continued)

Hong Kong



⁶ Under Rule 55 of RoP, other than a committee of the whole Council, the Council may on a motion moved by a Member commit the bill to a select committee or the President may direct that the bill be committed to a select committee. Since the First LegCo, there has not been any bill committed to a select committee.

Handling of amendments to bills

	UK	Canada	Australia	New Zealand	US (Senate)	US (House)	Hong Kong
Standing Orders / Rules	SO 32	SO 76(5), 10	SO 150(a), 150(e)	SO 298(2)	Rule XXII(2)	Rule XVI(7)	RoP 57(4)
Criteria / principles for determining admissibility of amendments	<p>Practice <u>Amendment is not admissible if it is:</u></p> <ul style="list-style-type: none"> - Irrelevant to the subject-matter - Beyond the scope of the bill - Governed by or dependent on amendments which have already been negated - Inconsistent with a decision of the House / committee, or negated previously - Making the clause proposed to be amended unintelligible or ungrammatical - Incoherent or inconsistent with the context of the bill - Vague, trifling or tendered in a spirit of mockery - Equivalent to a negative of the bill - Offered at a wrong place in the bill - Creating public charges without a relevant Money resolution or Ways and Means resolution having been passed 	<p>Notes to SO <u>Amendment is not admissible if it is:</u></p> <ul style="list-style-type: none"> - Previously ruled out of order in committee - Previously defeated in committee - A motion or series of motions of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage - Amendments that could have been presented in committee are normally not selected 	<p>Criteria laid down in SO <u>Amendment is not admissible if it is:</u></p> <ul style="list-style-type: none"> - Not within the title or not relevant to the subject matter of the bill - Not conforming to the Standing Orders - Substantially the same as one already negated by the House or the Federation Chamber - Inconsistent with one agreed to already by the House or the Federation Chamber <p>Practice <u>Precedents of amendments ruled out of order:</u></p> <ul style="list-style-type: none"> - Ironical - In conflict with the Constitution 	<p>Criteria laid down in SO <u>Amendment is not admissible if it is:</u></p> <ul style="list-style-type: none"> - Not relevant to the subject-matter of the bill - Not consistent with the principles and objects of the bill - Not in conformity with the Standing Orders and the practices of the House <p>Practice <u>Precedents of amendments ruled out of order:</u></p> <ul style="list-style-type: none"> - The same in substance as a previous amendment - Inconsistent with a previous decision of the committee - Frivolous or vague or lacking in legislative form 	<p>Criteria laid down in Senate Rules</p> <ul style="list-style-type: none"> - No specific requirement on amendments to ordinary bills - The germaneness requirement only applies to appropriations bills, a bill under cloture, and certain bills pursuant to relevant statutes. <p>Practice <u>Precedents of amendments ruled out of order:</u></p> <ul style="list-style-type: none"> - Not properly drafted - Amending language already agreed to - Amendment of a Senator to his or her own amendment 	<p>Criteria laid down in House Rules <u>Amendment is not admissible if it is:</u></p> <ul style="list-style-type: none"> - Not germane <p>Practice <u>Precedents of amendments ruled out of order:</u></p> <ul style="list-style-type: none"> - Not germane to the subject matter under consideration - Proposing the method of action not closely allied to that of the bill - Not within the jurisdiction of the committee reporting the bill - An amendment affecting the measure in more than one place - Same as one already considered and rejected by the House 	<p>Criteria laid down in RoP <u>Amendment is not admissible if it is:</u></p> <ul style="list-style-type: none"> - Not relevant to the subject matter of the bill - Inconsistent with any clause already agreed to or with previous decision of the committee upon the bill - Unintelligible or ungrammatical - Frivolous or meaningless - Creating a conflict or discrepancy between the text in each one language and the text in the other
Whether the Speaker or Chair has the power to select amendments	<ul style="list-style-type: none"> - The Speaker or Chair has the power to select amendments. - Selection is made to bring out the salient points of criticism, prevent repetition and overlapping, and choose the more effective and the better drafted. - The Speaker or Chair does not give reasons for not selecting an amendment and there is no appeal against such decisions. 	<ul style="list-style-type: none"> - The Speaker has the power to select amendments based on principles set out in the notes to the SO. - The Speaker, in practice, informs the House of the motions that have not been selected with reasons stated. - The Speaker's decisions are not subject to appeal. 	<ul style="list-style-type: none"> - The Speaker or Chair has no power to select amendments. 	<ul style="list-style-type: none"> - The Chair has no power to select amendments. 	<ul style="list-style-type: none"> - The Presiding Officer has no power to select amendments. 	<ul style="list-style-type: none"> - The Chair has no power to select amendments. 	<ul style="list-style-type: none"> - The President considers if an amendment is admissible based on the requirements set out in RoP.

Speaking time limits

	UK	Canada	Australia	New Zealand	US (Senate)	US (House)	Hong Kong
Standing Orders / Rules	SO 47(1), 47(3), 76	SO 76(7)	SO 1, 69	SO 118(1)	Rule XIX	Rule XVIII (5(a))	RoP 38(1)(a), 36(5)
No. of times to speak and speaking time limits	<p><u>Committee of the whole House</u>¹</p> <ul style="list-style-type: none"> - Members may speak more than once to the same question. <p><u>Report stage</u></p> <ul style="list-style-type: none"> - The Member in charge of the bill or the mover of any amendment or new clause or schedule in respect of that amendment any speak more than once. - Generally, Front-benchers² can speak for not more than 20 minutes at a debate. - Time limit for other Members to speak is specified by the Chair. 	<p><u>Report stage</u></p> <p><i>On any motion or grouping of motions:</i></p> <ul style="list-style-type: none"> - Each Member may speak once only. - The first speaker of each recognized party³ is accorded 20 minutes - Other Members may speak for not more than 10 minutes. 	<p><u>Consideration in detail in House Chamber</u></p> <ul style="list-style-type: none"> - Each Member may deliver multiple speeches. - The time limit for each speech is five minutes. 	<p><u>Committee of the whole House</u></p> <p><i>On each part or provision of a bill:</i></p> <ul style="list-style-type: none"> - The Minister or the Member in charge of a bill may deliver multiple speeches. - Other Members may deliver not more than four speeches. - The time limit for each speech is five minutes. 	<p><u>All Senate sittings</u></p> <ul style="list-style-type: none"> - Senators can make two speeches on any one question in debate on the same legislative day. - There is no limit on the length of individual speeches. 	<p><u>Committee of the Whole</u></p> <ul style="list-style-type: none"> - A Member may speak only once for five minutes on a pending amendment. - The Member who offers an amendment is allowed five minutes to explain it. After the explanation, another Member who first obtains the floor is allowed five minutes to speak in opposition to the amendment proposed. - Members may make use of pro forma amendments⁴ to get time for debate. - Debating time may be extended by unanimous consent. 	<p><u>Committee of the whole Council</u></p> <ul style="list-style-type: none"> - Each Member may speak more than once. - A Member may speak for not more than 15 minutes each time.

¹ In recent years, bills that have had their committee stage in Committee of the whole House are generally of the following categories: bills of major constitutional importance; emergency and other expedited legislation; bills of a very uncontroversial nature; and private Members' bills which are unopposed and of which all the stages are taken without debate.

² Front-benchers include a Minister and Members speaking on behalf of the Leader of the Opposition or not more than one Member nominated by the leader of the second largest opposition party

³ A recognized party is defined as one which has 12 or more members in the House of Commons of the Canadian Parliament.

⁴ The "pro forma amendment" is an amendment motion to strike the last word what the Committee of the Whole is considering. In practice, a pro forma amendment is not actually written out, but is only a well-accepted device to get time for debate. No Member claims five minutes to speak against it, and the Committee does not vote on it.

Closure / cloture motion (Continued)

	UK	Canada	Australia	New Zealand	US (Senate)	US (House)	Hong Kong
Whether the Speaker or Chair has discretion on whether to put the motion to vote	Yes, if the motion appears to be an abuse of the rules of the House, or an infringement of the rights of the minority	No, the Speaker has to put the motion to vote after the question and answer period.	If the motion is negatived, the Chair shall not allow another closure motion to be moved again on the same question, if he is of the opinion that it is an abuse of the orders or forms of the House or moved for the purpose of obstructing business.	Yes, depending on whether the Chair considers it reasonable to do so	No, after the cloture motion is read to the Senate, the Senate returns to whatever business it had been transacting. On the subsequent third calendar day, the Presiding Officer presents the cloture motion to the Senate for a vote.	No, the chair has to put the motion to vote immediately.	Not applicable
Majority required to pass the motion	Not fewer than 100 Members voted in the majority in support of the motion	Simple majority	Simple majority	Simple majority	Three-fifths of the full Senate (i.e. 60 out of 100 Senators)	Simple majority	Not applicable
After the passage of the closure / cloture motion	All questions on the clauses of bill and amendments thereto must be put to the vote immediately	Debate on the bill may continue until 8 pm of the same sitting day, during which Member can speak up to 20 minutes. At 8 pm, all questions must be put to vote	Closure only applies to the immediate question before the House	All questions on the clauses of bill and amendments thereto must be put to vote immediately	Debate on the bill may continue for 30 hours, where each Senator may speak for up to 1 hour. The pending questions on the bill must be put to vote at the end of the 30-hour period, or when no Senator requests to speak.	It depends on whether the motion was moved to close the debate immediately, at a time certain, or after a specified period of time. The chair may: <ul style="list-style-type: none"> (a) continue recognize Members for five minutes each, (b) divide the remaining time between the control of two Members and allow them to yield part of their time to others as they choose, or (c) divide the remaining time equally among the Members who stand to indicate their desire to be recognized. 	Not applicable

Mechanisms to set time limits for the scrutiny of bills

	UK	Canada	Australia	New Zealand	US (Senate)	US (House)	Hong Kong
Standing Order / Rule	SO 83A to 83B	SO 78	SO 82 to 85	SO 55 to 56 (Urgency motion), SO 77 (Limited-time debates)	No specific rule; by unanimous consent	Rule XVII (3(a)); or by a special rule made by the Committee on Rules	No express provision
Who can move the motion	A Minister of the Crown	A Minister of the Crown	A Minister	A Minister (Urgency motion)	Not applicable	Not applicable	Not applicable
Details of the motion	<ul style="list-style-type: none"> - Programme motion contains an outline of the timetable for the bill, or - It may specify that a Programming Committee be established to consider the timetable and makes a report for the House's decision 	<ul style="list-style-type: none"> - Depending on the degree of acceptance of the political parties, allocation of time motion can apply to one or more than one stage of the legislative process. - Time is allocated in terms of sitting days or hours. 	<ul style="list-style-type: none"> - An urgent motion declares a bill urgent - If an urgent motion is agreed to, an allotment of time motion may be moved immediately to specify the time for any stage of a bill's consideration. - Dates for the termination of scrutiny or fixed hours allotted for each stage are usually specified. 	<ul style="list-style-type: none"> - Urgency motion enables the Government to declare a bill as urgent so that it can introduce the bill and have all stages of legislative scrutiny passed through in one sitting of the House - Limited-time debates are determined by the Business Committee that use its power to determine the time to be spent on an item of business, the time to be allocated among the parties represented in the House, and the speaking times of individual Members 	<ul style="list-style-type: none"> - Time agreement by unanimous consent usually sets out details of time available for debate on every stage of a bill, and only amendments specified in the agreement can be proposed and debated. 	<ul style="list-style-type: none"> - For every important or controversial bill, the Committee on Rules makes a special rule that specifies the length of time for general debate and the restrictions that amendments are subject to. 	Not applicable
Notice requirement	Yes, to be given before the second reading of a bill	No, if agreed with recognized parties. Otherwise oral notice is required.	No notice requirement for urgent motion. Upon agreement of an urgent motion, an allotment of time motion may be moved.	No notice requirement	Not applicable	Not applicable	Not applicable
Whether the motion is debatable	- In most cases, the motion is moved and put to vote immediately.	- No, but if it is moved without agreement with other parties, a question and answer period of not more than 30 minutes will be held, during which Members may put brief questions to the Minister (SO 67.1)	<ul style="list-style-type: none"> - No debate for urgent motion. - Allotment of time motion is subject to debate for 20 minutes during which each Member can speak for not more than 5 minutes. 	Motion not debatable	Not applicable	Not applicable	Not applicable

Mechanisms to set time limits for the scrutiny of bills (Continued)

	UK	Canada	Australia	New Zealand	US (Senate)	US (House)	Hong Kong
Whether the motion is amendable	No, but if during the course of debate it has become apparent that the motion needs to be changed, it was common for the Government to invite the House to agree on the original motion on the understanding that a revised version will be tabled in the following few days.	Motion not amendable	Motion not amendable	Motion not amendable	Not applicable	Not applicable	Not applicable
Majority required to pass the motion	Simple majority	Simple majority	Simple majority	Simple majority	The agreements are negotiated between major political parties and have to receive the concurrence or acquiescence of each and every Senator.	Not applicable	Not applicable