

The View from the ‘Other Side of the Fence’ Reforming the Committee of the Whole process in the New South Wales Legislative Assembly

Introduction:

This paper considers the role of the Committee of the Whole in the New South Wales Legislative Assembly by providing an overview of how the Committee process works both in theory and, more importantly, in practice. It also discusses procedural changes in other jurisdictions that have changed the way legislation is scrutinised and amended and considers whether there is a need to change the way things are done in the New South Wales Legislative Assembly.

The Committee of the Whole House is a committee of all the members of the House. The House may refer any matter to a Committee of the Whole but the procedure is mainly used as the step in the parliamentary process to amend legislation.

After the second reading of a Bill has been agreed to, if amendments are proposed to be moved, the House resolves itself into a Committee of the Whole. This means that instead of moving to a different location, the Whole House conducts a committee meeting in the Chamber. The Committee's reference is the bill before the House.

The Committee of the Whole provides a forum for a bill to be analysed in a more informal manner, for example Members are able to speak more than once and raise specific issues on the operation of the legislation, as opposed to the second reading which concentrates on the principles behind the bill. It also allows a question and answer session to take place between Members and the Member in charge of the bill.

The Committee of the Whole is presided over by the Chairman of Committees instead of the Speaker and its functions are exercised quite apart from the House so much so that its proceedings are not recognised by the House until the Chairman makes a report.

The committee stage in the legislative process has received critical examination recently and many jurisdictions have moved away from amending all legislation in the committee of the whole House by utilising other procedures.

History of the Committee of the Whole:

As noted, when the House resolves itself into a Committee of the Whole the Speaker steps down from the Chair and is replaced by the Chairman of Committees. The custom of the Speaker vacating the Chair when the House goes into committee originates from the days when members had reason to doubt the loyalty of the Speaker, and preferred him to be absent when they wished to debate freely.¹ The procedure was originally used for a host of purposes when the House wished certain matters to be considered thoroughly before being formally approved by the House itself, particularly financial matters.²

¹ This was as the position of Speaker was deemed to be held by a person loyal to the Monarch. See Wilding and Laundry, *An Encyclopaedia of Parliament*, Revised edition, 1961, p. 122 - 124

² Griffith and Ryle, *Parliament: Functions, Practice and Procedures*, 1989, p. 269

The earliest references to ‘general committees’ and ‘grand committees’, which comprised the total membership of the House, are found during the reign of Elizabeth I. Historically, in the House of Commons bills were originally committed for revision and improvement and to incorporate amendments. Mostly these committees were comprised of Members who were officially connected with the Crown or who might be subject matter experts, for example, lawyers.

The ‘committee of the whole House’ originated as a device to let ordinary members take part in such deliberations on legislation.³

Overview of the Committee of the Whole process in the New South Wales Legislative Assembly:

The Committee stage generally occurs when a Member (or Minister), during the second reading stage, indicates their intention to move amendments. However, if debate for the purpose of further clarification or specific comment is required on the bill under consideration, the Committee stage is the appropriate forum.

When the House is in Committee, the Speaker leaves the Chair and the Mace is removed from the Table by the Serjeant-at-Arms and placed on a lower rack. The Chairman sits at the Table in the seat usually occupied by the Clerk of the House.

The function of the Committee is to go through the bill clause by clause and if necessary word by word with a view to making the bill more acceptable to a majority of the Committee.

There are three general principles governing the moving of amendments in Committee.

- (1) Amendments must be relevant to the subject matter of the bill.⁴ For example an amendment that is contradictory to a principle already agreed to by the Committee or related to an amendment already negated is inadmissible.
- (2) The Committee is bound by the decision of the House on the second reading in favour of the principle of the bill. It may not therefore, amend a bill in a manner that is destructive of or reverses its principle.
- (3) The objects of a bill are stated in its long title that should cover the matters contained in the bill, as introduced. Amendments are not necessarily limited by the title of the bill, as the Committee may make amendments relevant to the subject matter of the bill and the title extended accordingly.⁵

The following are some examples of the types of amendments that would be inadmissible in Committee-

Amendments which -

- (i) Directly or indirectly conflict with the principle of the Bill as determined at the second reading.
- (ii) Contradict a principle already agreed to by the Committee or relate to an amendment already negated by the Committee.

³ Lord Crompton, *An Introduction to the Procedure of the House of Commons*, 3rd ed., Macmillan, London, 1958, pp. 25 – 29.

⁴ Standing Order 224 of the Legislative Assembly.

⁵ Standing Order 225 of the Legislative Assembly.

- (iii) Would render the provision of a bill inconsistent.
- (iv) Introduce a new principle.
- (v) Would render a bill unintelligible.
- (vi) Are moved in a spirit of mockery.
- (vii) Would make a clause inoperative.
- (viii) Propose to omit a whole clause. This is achieved by voting against the clause.
- (ix) Would, in a bill providing for a charge upon the Consolidated Revenue (the "Crown") involve an additional charge; or, in a bill not already providing for expenditure, create one.

In order to allay any confusion, new clauses or schedules are considered in the numerical order in which they are proposed to be inserted in the bill.⁶

When two amendments clash (i.e. are offered in the same part of the bill), the Chairman may "test the Committee" by proposing only those words of the first amendment down to the point where the second amendment would begin.

Where there are several amendments offered at the same place in a clause, an amendment to omit words in order to insert other words takes precedence of an amendment to omit words. If the conflicting amendments are the same, amendments proposed by the Minister or Member in charge of the bill take precedence of others. The order in which amendments are handed in to the Clerks is also considered if Members' amendments conflict.

In the case of conflicting amendments to insert words, the amendment first proposed would be considered first and if the insertion was agreed to, the question on the second insertion is not proposed by the Chair because it is inconsistent with the decision already made.

An amendment may be proposed to a proposed amendment.⁷ However, no further amendment may be considered until the proposed amendment to the amendment is dealt with.

In some cases there may be a series of related amendments, which the Committee agrees can be dealt with "in globo" (i.e. all together). In this event, it is possible, with the leave of the Committee, for the Chairman to put one question "That the amendments as circulated be agreed to".

After being considered in Committee, a bill may be recommitted to reconsider any clause or clauses etc, or the whole bill. This is brought about by the moving of amendments to the questions for the adoption of the Report from the Committee or for the third reading.

Once a bill has been reported by the Chairman to the House with or without amendment, it is read a third time by leave of the Speaker and a Message is sent to the Council (either forwarding or returning) the bill with or without amendment. If the Council disagrees with any Assembly amendment(s) the question of whether the Assembly will insist or not insist on the amendment(s) is dealt with in Committee of the Whole.

⁶ Standing Order 223 of the Legislative Assembly sets out the order of consideration.

⁷ Standing Order 174 of the Legislative Assembly.

Committee of the Whole is the only place where a bill can be amended, hence it is also necessary for the Speaker to leave the Chair to permit the consideration of Legislative Council amendments in a bill.

The Committee of the Whole is subservient to the House in that it cannot make decisions but only report to the House and the House will ultimately decide. Given this, it is not within the powers of the Chairman to rule any clauses out of order. Having been referred to the Committee they must be presumed to be in order. Clauses must be dealt with either by amendment or otherwise. Furthermore, it is not competent for a committee to question the legality of proposed legislation and it is not in order for a committee to change a motion in such a way as to make it express an opinion.

A committee may consider only those matters referred to it. This point usually crops up when a Member desires to import matters by way of amendment, the nature of which are outside the scope of the bill (or other matter) that has been referred to the Committee by the House.

In the Committee of the Whole a bill cannot be defeated but it may be “laid down”. As such, while a bill is only able to be withdrawn in Committee with the leave of the House, a Committee of the Whole can indirectly “destroy” a bill by:

- reporting progress, without asking leave to sit again;⁸
- agreeing to a motion “That the Chairman do now leave the Chair” or in other words refusing to proceed with the bill; or
- by negating a clause or clauses, the omission of which will nullify the bill.⁹

The Committee of the Whole in the New South Wales Legislative Assembly in practice:

The first point to make is that committee of the whole procedure is not used as frequently in the Legislative Assembly as it has been in the past. By way of example, during the 50th Parliament (1991 – 1995), where there was a minority Government 32% of all bills passed were considered in the Committee of the Whole stage. However, with the return of a Government majority only 25% were considered in Committee during the 51st Parliament (1995 – 1999) and a mere 16% during the 52nd Parliament (1999 – 2003). To date in the first session of the 53rd Parliament this has remained steady at around 19%.

It could be that the reason why there has even been this many committees in recent years is that Government legislation has been, in many cases, under prepared. For example, of the 284 bills assented to since 2003, there have been amendments in 25 Government bills (around 9%) which is not insubstantial.

It has been argued that there is a lack of proper time-tabling of Government legislation. Governments often rush through legislation allowing little time for detailed consideration. As one Member commented:

⁸ This is because should a committee of the whole when reporting progress fail to “ask leave to sit again”, the order of the day lapses and consideration of the business in question may not be resumed until the order of the day is restored to the business paper for a future day.

⁹ McKay, Sir William (Ed.), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 23rd edition, 2004, p 601

“Difficulties are created when the Government introduces a bill late one night and rams it through the House the next day. The adoption of such an approach does not make for sensible debate and does not provide for the bill to be worked through in a proper manner¹⁰”

Many amendments are pushed to the Upper House and there appears to be a view amongst some Members that the value gained from time spent in Committee of the Whole stage is related to the time made available for prior consultation. For instance, a familiar refrain is as follows:

“I am pleased to have the opportunity to speak to this bill, which the Opposition will not oppose in this House. However, we will continue to review it, consult with interested parties and raise any concerns about it in the other place in the remaining days of these parliamentary sittings.”¹¹

Another reason for the decline in respect for the value of Committee proceedings is the increasing use of Parliamentary Secretaries, acting for the responsible Ministers, in guiding a bill through committee. Because Parliamentary Secretaries do not necessarily have the detailed knowledge of the Minister, Members are often frustrated at not being able to have their legitimate queries answered on the spot and also in a debate on the third reading that could follow.

Proceedings in committee have also been devalued through Government motions suspending the operation of certain rules in committee, for purely expedient purposes. There are numerous examples of the Government requiring amendments to be moved and therefore debated in globo (together in one motion) and requiring amendments in different bills to be dealt with in one committee under one motion.

Members are often critical of the lack of opportunity provided for them to propose amendments to legislation. For instance, one member of the Opposition recently said that the hastened passage of legislation and the fact that amendments moved by members of the Opposition were not seriously considered in the Legislative Assembly, was subversive of his rights as a member. This followed comments by a Minister that all amendments including Government and Opposition amendments would be considered in the Upper House following further consideration and consultation with stakeholders. The member said:

“...If the Government wants further time to consider the Opposition amendments it would be appropriate to adjourn debate at this stage, consider the amendments, undertake the consultation that the Minister has promised and then come back to the Chamber. It would not waste our time. If the Government then supports the amendments they can be passed in this Chamber and the Government can debate whatever it wants to in the other House. The lower House is the House that represents the people. We all have individual electorates to which we are beholden. That is particularly true of country members, who are most affected by this bill.

It would be a complete abrogation of our responsibility and their responsibility to their constituents if we were simply to take the Government on trust over these amendments and leave consideration of the amendments to the upper House. If the amendments are passed in the upper House they will have to come back here for further consideration and ratification. That involves an awful lot of duplication. The most sensible course of action for the Government unquestionably would be to adjourn the debate. The debate can be resumed next week and the

¹⁰ Legislative Assembly Parliamentary Debates, 13 November 2003, p 18

¹¹ Legislative Assembly Parliamentary Debates, 7 December 2004, p 13421

Government can come back with a firm position on the amendments. It should tell us where it stands on these important issues that affect its constituents.”¹²

Another Member (the shadow Minister) speaking to the Gaming Machines Amendment Bill on 9 June this year, said that:

“...the unexpected suspension of standing orders to allow the passage of the bill through all stages today occurred but a few hours ago. While I shall make several comments in my speech, I point out that I have not discussed the bill with departmental officers. I have not read the Minister’s second reading speech carefully, analysed the bill – a copy of which I have only just received - or had the usual opportunity to consult extensively with the industry and stakeholders. I make my remarks in that context and the Opposition reserves the right to offer further comments in another place and, necessary, to move further amendments. The Opposition might even oppose the bill, although I indicate we shall not do so in this place at this time¹³”

The Member went on to move a handwritten amendment, drafted by the Clerk at the Table, in committee which, unusually, was agreed to by the Government.

This session, since 2003, has seen 125 amendments proposed by the Opposition (with 2 agreed to) and 25 by the Independent Members (also with 2 agreed to). It is difficult to get a grip on the gravity or otherwise of the amendments moved by non Government Members in committee. There have been 48 divisions in committee since 2003, however this does not mean that 48 of the amendments were seen as important in the eyes of the mover because the divisions are often in respect of a number of amendments moved in globo.

An indication of the health or otherwise of the Committee of the Whole process, I feel lies in looking at how the House exercises its prerogative over financial legislation, in particular how it deals with the annual Appropriation Bills and cognate bills. In the Legislative Assembly, other than the replies of the Party leaders, the second reading debate does not take place on the bills but rather on a motion to “take note” of the Budget Estimates and related papers. There has not been a Committee of the Whole on these bills since 2000.

The recent history of these important bills in Committee of the Whole speaks for itself:

- 1995 – committed but closure moved
- 1996 – one cognate bill was committed
- 1997 – no committal
- 1998 – no committal
- 1999 – committed, reported without amendment in under 5 minutes
- 2000 – committed for Government amendments and completed in under 10 minutes.

This year the bills were subject to a suspension motion that not only limited the number of second reading speeches (on the basis that the bills had to be up to the Council before a certain time) but also specifically precluded consideration in committee. The suspension motion was agreed to by the Opposition, although, as it turned out, one of their members had drafted and was ready to move an amendment to one of the bills in Committee. The same tactic - of precluding consideration in committee – was also adopted in 2004.

¹² Legislative Assembly Parliamentary Debates, 20 October 2004, pp 11687 - 11688

¹³ Legislative Assembly Parliamentary Debates, 9 June 2005

As previously noted, the fact that bills are not receiving detailed consideration in the Legislative Assembly has been criticised by some members. However, these Members are in the small minority. The general acceptance that moving amendments in Committee stage is not an effective tactic may stem from the fact that Members appear to lack a thorough understanding as to what they can and cannot move as amendments during the Committee stage.

For example, Members often seek the advice of the Clerks in relation to financial bills and amendments as they are somewhat confused by the rules and practices of the House. Section 46 of the *Constitution Act 1902* provides that the House cannot pass any vote, resolution or bill for the appropriation of any part of the Consolidated Fund, or of any other tax or impost to any purpose which has not been first recommended by message of the Governor unless such measure is proposed by a Minister.

However, the *Constitution Act* and the standing orders are silent as to whether private members may introduce bills or amendments that vary the incidence of an existing tax and many members are unclear as to whether they can introduce any amendments to money or taxation bills. A private member is able to introduce a bill or an amendment to existing legislation, which provides for a taxing regime, where the effect of the amendment would be to reduce the given rate of taxation. Private members are also able to introduce legislation or propose amendments that deal with matters associated with taxation such as taxation schemes and the collection of taxation so long as they do not appropriate monies from taxation to a particular purpose.

Another area of difficulty with amendments is the moving of amendments that are subversive of the principles of a bill. Such amendments are prohibited under the practice of the House and this sometimes leaves the Opposition in difficulty in moving substantive amendments that are not intended to destroy the bill but are intended to make massive changes.

This lack of understanding of the procedures of the Committee of the Whole process has resulted in the committee process not being seen as an effective political strategy and has contributed to its lack of use.

Because of the limited opportunities available to propose and have amendments accepted by the Government, Members have also adopted a tactic of having bills drafted in the hope that the arrangements for debating private Members' bills will work more to their advantage.

The limited opportunity to amend legislation is coupled with the fact that the House also often limits the time to consider amendments made by the Legislative Council. This is due to the fact that the Legislative Assembly often considers several bills that have been returned from the Legislative Council together in one committee, particularly as the year or session comes to a close. For example, on the last day of the Budget session in June this year six bills that had been amended by the Legislative Council were returned to the Legislative Assembly and they were considered in one committee, where debate lasted for less than an hour and only because one Member gave the equivalent of a second reading speech.

Procedural changes and reforms in other jurisdictions:

So if the procedure is not perceived as being effective, are there any other better options?

A number of jurisdictions have changed the way legislation is amended and have moved away from using the Committee of the Whole procedure in relation to the majority of legislation.

The Australian House of Representatives no longer has a Committee of the Whole House stage in its consideration of legislation. Since 1994, legislation in that House proceeds to a detailed consideration rather than a committee stage. This detailed consideration can take place in the House or in what is referred to as the Main Committee. The Main Committee is a debating committee and is an extension of the Chamber of the House. However, unlike the Committee of the Whole, the Main Committee occurs in another room away from the Chamber and is able to operate in parallel to the House and thereby allowing two streams of business to be debated concurrently. The proceedings of the Main Committee are recorded in the same way as proceedings in the House and are open to the public. Whilst the Main Committee can deal with any matter referred to it by the House its main role is to deal with the second reading and the consideration in detail stages of bills (i.e. where amendments are made) of an uncontroversial nature.

It is argued by the House of Representatives that “the intention behind the establishment of the Main Committee is to give Members extra opportunities to speak on bills or reports of a relatively non-controversial nature and at the same time free the Chamber for debate on other matters. This allows the time of the House to be used more effectively, and in a sense, significantly increases the amount of time available for considering business.”¹⁴

There are some similarities with the Committee of the Whole in that the Main Committee can only consider matters that have been referred to it by the House and being a subordinate body, the House must confirm any decision it makes. However, there is no provision for divisions in the Main Committee. If business cannot be progressed by general agreement it is reported back to the House as ‘unresolved’.

The House of Representatives introduced the concept of the Main Committee following a recommendation by the Standing Committee on Procedure of the House in 1993. The Committee was of the view that the committee of the whole stage was of no benefit to the House in that it merely added unnecessary complication to the legislative process and excessively took up the time of the House.¹⁵

It was argued by the Procedure Committee that some of the benefits of considering bills in the Main Committee would include:

- Members using their time more productively;
- Minimising the need for closures and the use of the guillotine;
- Providing the House more time by putting more of its business into committee and removing committee proceedings from the Chamber;
- Dealing with legislation more efficiently;
- Allowing more time in the House for debate on the major and controversial items of the Government’s legislative agenda;

¹⁴ House of Representatives infosheet, *The Main Committee*, December 2004.

¹⁵ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours – Report of the inquiry into reform of the House of Representatives*, October 1993, p 8.

- Providing backbenchers with opportunities to make speeches for the record on routine bills, which are of special interest to them or of importance to their electorate.¹⁶

In the UK House of Commons it has become established practice for many Government bills to be referred to a standing committee for their committee stage. A new standing committee is appointed for each bill and the membership of each committee reflects the composition of the House and is discharged when it has reported its bill to the House. There may be several standing committees appointed at any one time.¹⁷

These standing committees act in the same way as the Committee of the Whole. In each of these forums the committee examines each clause and schedule of a bill, agreeing or disagreeing to a motion that it “will stand part” of the bill. The committee also considers “selected” amendments to the bill including any additions to the bill.

On rare occasions a bill may be committed to a Special Standing Committee, which spends a limited time investigating the issues involved before going through the bill in the usual way as a normal Standing Committee.

Those bills that are considered by the whole House in the Committee of the Whole stage tend to be of constitutional importance, those requiring a very rapid passage and certain financial measures, including at least part of each year’s Finance Bill.¹⁸

The report stage in the House follows the committee stage and this provides Members, who were not on the standing committee, with an opportunity to move amendments to the bill. It also allows time for the Government to give further consideration to matters that were raised during the committee stage. The House can reverse or amend changes made by a standing committee.

The Modernisation of the House of Commons Committee concluded in its first report that “it would be wrong to prescribe a single approach for all types of legislation.”¹⁹ The Committee noted that “there is a range of committal options open to Government...These options have been used very sparingly in the past, we recommend greater use in future of:

- (i) committal of appropriate bills to a Special Standing Committee;
- (ii) committal of appropriate bills to ad hoc Select Committees; or
- (iii) splitting a bill on committal between the floor of the House and a Standing Committee, or between different sorts of committees, as deemed appropriate.”²⁰

Bills in the House of Commons may also be referred to a second reading committee on the motion of a Minister or private member instead of the second reading being debated in the House. At least 10 days notice must be given for such motions and no motion can be made until the bill in question has been printed. If twenty or more members object to the motion it

¹⁶ Ibid, pp. 11 – 12.

¹⁷ See House of Commons fact Sheet – *Parliamentary Stages of a Government Bill*.

¹⁸ Ibid.

¹⁹ See the First Report of the Select Committee on the Modernisation of the House of Commons, available at <http://www.publications.parliament.uk/pa/cm199798/cmselect/cmmodern/190i/md0102.htm> at paragraph 84.

²⁰ Ibid at paragraph 95

is defeated. Once these committees have completed the second reading and reported to the House as to whether the bill ought to be read a second time the question for the second reading is decided without amendment or debate. It is noted that "...this procedure has been generally regarded as suitable only for bills 'which are not measures involving large questions of policy nor likely to give rise to differences on party lines'" ²¹

In the Canadian context, the Committee of the Whole procedure has given way to the use of specialised committees to which bills are referred after second reading for more detailed study. This is where the more detailed clause-by-clause consideration of legislation takes place. In the House and in the Senate and in most provincial legislatures it is usual for legislation to be referred to a committee where it will invite submissions from interested individuals and groups.²² Committees usually hear from the Members or Minister sponsoring the bill in addition to other witnesses. Amendments must be in keeping with the principle of the bill as agreed to at the second reading stage. After a committee has completed consideration of a bill, it orders that the bill be reported to the House.²³

To provide for consideration of bills in committees in NSW would require the Government to better organise and advertise its legislative program. It would also require a decision to be made whether to send selected or all bills to committee prior to the second reading (meaning that the principle of the bill could be at issue) or whether to send bills after the second reading for fine tuning. This would require a delicate balancing for committees, its Members and witnesses not to traverse the principles involved.

The Legislation Review Committee does review bill prior to their second reading very quickly, albeit upon narrow terms of reference and without taking evidence.

All these jurisdictions have effectively reduced the amount of time the House spends on legislation by removing the amendment stage to other forums. This arguably not only saves the time of the House but also allows for more effective scrutiny of legislation as more thorough examination can be conducted in a smaller forum such as the Main Committee in the House of Representatives, or the standing committees employed in the UK and Canada.

The need for reform in the New South Wales Legislative Assembly?

Given the innovative developments that have occurred in other jurisdictions, the New South Wales Legislative Assembly could arguably be staying with a procedure that is outdated and in need of reform. The detailed consideration that legislation goes through in the Committee of the Whole is in many respects seemingly unnecessary and a little antiquated. The House of Representatives Standing Committee on Procedure summed up the process as follows:

"...a bill almost always goes through its 'committee stage'...immediately following its second reading and is considered 'in committee' by the Members present in the Chamber who have just participated in the second reading debate...Following the consideration of amendments the Chair of the committee reports back to the Chair of the House....The members present then

²¹ McKay, Sir William (Ed.), *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 23rd edition, 2004, pp. 586 – 587.

²² See comments taken in evidence by the Senate Committee on Rules, Procedures and the Rights of Parliament, Wednesday 30 May 2001 at www.parl.gc.ca/37/1/parlbus/commbus/senate/com-e/Rul2-e/08ev-E.htm

²³ House of Commons, Canada, *Précis of Procedure*, 5th edition, 1996, p 57

agree formally, as ‘the House’, to accept what they, seconds before, have agreed to as the committee of the whole.”²⁴

This is not to say that the Committee of the Whole stage should be abolished completely. Rather, it points to the need to consider other forums that could be used to assist in the passage of legislation through the Parliament and perhaps provide Members with greater opportunities to participate.

One option is to go down the path of the House of Representatives and have a Main Committee, which can provide a forum away from the House to hold the second reading debate and consideration in detail stage of uncontroversial bills. Much legislation that goes through the Legislative Assembly does so unopposed. It is these types of bills that would ideally be referred to such a forum, particularly if they are ordinary run of the mill legislation and of no policy importance such as bills that are solely administrative in nature. This would free up the time of the House for discussion of more important matters.

Another mechanism that could be useful for those bills that are uncontroversial is the of second reading committees such as those used in the United Kingdom House of Commons. However, whilst these committees enable the second reading debate to take place away from the House it still leaves the consideration of amendments to the House or to another committee. The House of Representatives Standing Committee on Procedure noted that second reading committees were a useful tool but “...saw unnecessary procedural and administrative complexities in operating separate second reading and ‘committee stage’ committees.”²⁵

Standing committees such as those used in Canada that are able to take evidence from interested parties/stakeholders may be a useful forum for the consideration of bills in detail. During the second reading debate many members refer to the same points when speaking to a bill, due to the fact that lobby and other groups have provided all Members with information in relation to the bill. Instead of the House hearing the same issues repeatedly it is arguably more appropriate for a committee to hear directly from the stakeholders/ lobby groups.

The standing orders of the Legislative Assembly currently provide for a bill to be referred to a committee at the second reading stage.²⁶ However, it is seldom used. The procedure was last utilised in 2003 when the *Government (Open Market Competition) Bill* was referred to the Public Accounts Committee by the House for consideration and report. The bill was a private member’s bill and the procedure was more than likely used as a stalling tactic by the Government rather than as a mechanism for ensuring more detailed consideration of the legislation.

The Legislation Review Committee, a joint committee of the New South Wales Parliament, also has a role in scrutinising legislation before the House. However, the Committee’s work does not form part of the legislative process in the same way that the committees in the UK and Canada do.

²⁴ House of Representatives Standing Committee on Procedure, *About Time: Bills, Questions and Working Hours – Report of the inquiry into reform of the House of Representatives*, October 1993, pp. 7 – 8.

²⁵ *Ibid*, p. 6.

²⁶ Standing Order 210 of the Legislative Assembly.

All of the forums discussed have similarities to the Committee of the Whole - the most important is that they are subservient to the House and any reports/decisions made must be formally agreed to by the House. This should remain the case. Furthermore, whilst alternatives to the Committee of the Whole may be useful for much legislation the House should retain the option of considering a bill in detail and discussing proposed amendments on the floor of the Chamber if it chooses to do so.

A question mark still remains as to whether simply moving to a different delivery mechanism, for example consideration of bills in detail in the House, instead of in Committee of the Whole, will address the issues that have been raised by Members as having devalued the process.