VOTING

DEFINITION AND PURPOSE

The *Constitution Act, 1867* outlines the basic principle behind voting in the Senate. All decisions of the Senate are made by way of a majority vote. If a vote is tied, the motion is defeated.[1] Decisions can be made on a wide variety of matters, including legislation and amendments, constitutional resolutions or other resolutions expressing the opinion of the Senate, and routine procedural motions.

A question can take the form of a debatable or non-debatable motion. In either case, the question is decided by a vote. If a motion is not debatable, the Speaker will put it to a vote as soon as its adoption is moved. If a motion is debatable, the Speaker will either ensure that all senators who wish to speak have had a chance to do so, or will indicate to the Senate that time for the debate on the motion has expired, and then put the motion to a vote.

Senators may vote in favour of a motion or against it. They may also abstain from voting.

PROCESS OF VOTING

PUTTING THE QUESTION

When debate on a motion comes to an end and no other senator wishes to participate in the debate or move the adjournment of debate, the Speaker will ask if the Senate is ready for the question. The Speaker will then put the question to a vote. Depending on the level of agreement on the matter, there are various approaches to determine the will of the house. In order, they are:

I. A unanimous decision with no dissenting voice heard.

II. A majority decision, with only one or a few senators calling out “on division” to indicate that they disagree with the decision.

III. A voice vote, in which the Speaker asks those in favour of the motion to say “yea” and those opposed to the motion to say “nay”. The Speaker

then determines which side prevails. A voice vote is always recorded as "on division" when recorded in the Journals.

IV. A standing vote, in which the names of senators are called and recorded as being in favour of the motion, against it or abstaining. The names and total number of votes are recorded in the Journals.

UNANIMOUS OR MAJORITY DECISIONS

In the case of many routine motions, after the motion has been read, and if the will of the Senate is clear, the Speaker will declare the motion adopted or defeated. Procedural motions, such as those setting the date for the second reading of a bill or for the consideration of a committee report, are usually dealt with in this way.

If the will of the house is clear, but a few senators call out "on division," the Speaker will repeat "on division," a fact recorded in the Journals to indicate that the decision was not unanimous.

VOICE VOTE

In cases where the will of the house is not immediately clear, the Speaker can proceed to take a voice vote. In a voice vote, the Speaker will ask those in favour of the motion to say "yea" and then those opposed to say "nay". The Speaker then makes a determination of the will of the Senate and declares the motion adopted or defeated. Once the Speaker has made this declaration, the decision is final, unless there is a request for a standing vote.[2] In a voice vote, the individual votes of senators are neither counted nor recorded. The *Journals of the Senate* simply state that the motion was adopted or defeated "on division" to show the lack of unanimity.

STANDING VOTE

A standing vote is one during which the vote of each senator is counted and recorded. A standing vote is taken if, after a voice vote and before the Senate takes up other business, two senators rise to request a standing vote.[3] Before a standing vote can take place, the bells are generally rung to call in the senators. This allows senators who were not in the chamber at the time the vote was requested to get to the Senate Chamber for the vote.

At the time of the vote, the Speaker repeats the question, then asks all senators in favour of the motion to rise. A clerk at the table will call out each senator's name, after which the senator sits down. The Speaker will then ask those opposed to rise and finally those wishing to abstain, with the clerk calling out the names in each case. The votes are tallied and the Clerk of the Senate announces the results to the Speaker, who subsequently announces whether the motion is adopted or defeated.

TIME OF STANDING VOTE AND BELLS

In most cases, when a standing vote has been requested, the bells calling the senators to vote will ring for 60 minutes, unless there is leave (unanimous consent)[4] for the bells to ring for a shorter period of time following a proposal made by the Government and Opposition Whips.[5]

When a standing vote has been deferred, the Speaker will interrupt the proceedings of the Senate 15 minutes before the time for the vote and order the bells to ring.[6]

If the bells are ringing for a vote at a time when the Senate would ordinarily be required to adjourn, the Senate will not adjourn until the vote has been taken and any consequential business[7] related to the item voted on has been concluded.[8] A similar practice would be followed if a vote were to occur at or after 6 p.m. The Senate would not suspend until the vote and any consequential business have been completed.[9]

DEFERRED VOTES

As a general rule, a standing vote on a debatable motion can be deferred while a standing vote on a non-debatable motion cannot be deferred. When a standing vote is requested on a debatable motion, either the Government or the Opposition Whip can normally ask that the vote be deferred.[10]

When a standing vote has been deferred, the vote takes place at 5:30 p.m. on the next sitting day, unless there is an agreement or an order to proceed otherwise. If a standing vote is deferred on a Thursday and the next sitting day is a Friday, the Government Whip may defer the vote again to the next sitting day after Friday by rising in their place at any time before the deferred vote is to take place and making the request.[11]

When a deferred vote is scheduled for 5:30 p.m., the Senate cannot adjourn before that time even if it has completed its business for the sitting. In such a case, the Speaker suspends the sitting until 5:15 p.m., at which time the bells start to ring for the vote at 5:30 p.m.[12]

Any standing vote requested during Routine Proceedings, unless relates to a procedural motion (a non-debatable motion dealing with a routine matter necessary to move an item of business forward) or dilatory motion (a motion designed to dispose of the original question either for the time being or permanently), is deferred until 5:30 p.m. the same afternoon. Dilatory and procedural motions can be moved without notice and are decided without debate.[13]

RESTRICTIONS ON DEFERRING A VOTE

When a deferred vote is requested on a question that is followed by a series of questions consequential to it, votes on those subsequent questions may not be further deferred, and the bells will ring only once for the deferred vote on the first question and not for any subsequent standing vote on the consequential questions. Similarly, if there are several deferred votes, the bells will ring only once.[14]

RIGHT TO VOTE

The Speaker of the Senate does not have a deciding vote to break a tie. The Speaker has a deliberative vote, meaning that they can vote on any question. If they wish to do so, they vote first, before all other senators.[15]

In order to vote, senators must be within the bar of the Senate when the Speaker begins to put the question. Furthermore, they must be at their place in the Senate when they vote.[16]

A senator who has made a declaration of private interest is not permitted to participate in debate or vote on the matter in the Senate unless that declaration was retracted prior to the taking of the vote. The senator can, however, abstain.[17]

With leave of the Senate, a senator may change their vote, provided that they request it and provide an explanation immediately after the result of the vote has been announced.[18]

NO POINTS OF ORDER

A point of order may not be raised during a vote, only after the conclusion of the vote.[19]

FOR ADDITIONAL INFORMATION ON VOTING

Senate Procedure in Practice (Chapter 6)

FOR ADDITIONAL INFORMATION ON OTHER POINTS COVERED IN THIS NOTE

Senate Procedural Note No. 3, Debate

Senate Procedural Note No. 9, The Speaker of the Senate

Senate Procedural Note No. 11, Points of Order

Senate Procedural Note No. 14, Leave of the Senate

References

[1] *Constitution Act, 1867*, section 36 and rule 9-1.
[2] Rule 9-2.
[3] Rule 9-3.
[4] Appendix I of the *Rules of the Senate* defines leave as "[a]n agreement of the Senate, without dissent expressed, to take an action involving the suspension of a rule or usual practice without notice". See Procedural Note No. 14 for additional information.
[5] Rule 9-5.
[6] Rule 9-6.
[7] Appendix I of the *Rules of the Senate* defines consequential business as "Business that must be disposed of directly as a consequence of adopting a preceding motion."
[8] Rule 9-9.
[9] Rule 3-3(2).
[10] Rule 9-10(1).
[11] Rules 9-10(2), 9-10(3) and 9-10(4). In some cases – including when the Senate is debating a motion to allocate time, dealing with a time-allocated government order, studying a report on a senator from the Standing Committee on Ethics and Conflict of Interest for Senators, or during debate on a case of privilege – specific provisions govern the deferral of votes. See rules 7-3(1)(h), 7-4(5), 12-29(7) and 13-6(8).
[12] Rule 9-10(7).
[13] Rule 4-6.
[14] Rules 9-10(5) and 9-10(6).
[15] *Constitution Act, 1867*, section 36 and rule 9-1.
[16] Rule 9-8(1).
[17] Rules 9-7(1), 12-20(3) and 15-7(2). For additional information on this topic, see the *Ethics and Conflict of Interest Code for Senators*.
[18] Rule 9-7(2).
[19] *Senate Procedure in Practice*, June 2015, p. 217.