



detailed consideration than others. The suspensive veto, a form of which is currently used in the UK, is discussed relatively briefly for this reason. The endless shuttle, the dissolution of the chambers, joint sittings and referendums are also considered briefly as they are relatively unusual. The joint committee, or 'conference committee', which is in fairly common use in other countries but has no tradition in Britain, is given a more detailed treatment. The paper ends with some short conclusions.

## **The Suspensive Veto**

The form of suspensive veto employed in the UK parliament is described in the introduction. Forms of suspensive veto are relatively common overseas. In all of these systems the lower house ultimately has the 'last word', but the upper house may cause disruption and delay which acts as an incentive for the lower house to accept reasonable amendments. However, on major issues of principle in particular the upper house has no ultimate power to force the lower house to accept its views. Nevertheless the delay caused may enable the press and public to focus on the issue concerned and this on occasion may force a change of heart on the government and lower house.

Suspensive veto systems may operate in a number of ways, with or without a formal time period by which legislation will be delayed. Factors which differ between countries include the following:

### **Specified period of delay**

The UK system whereby the lower house may override the will of the upper house after a specified time, and where a bill - in the case of ordinary legislation - must be reintroduced in a second parliamentary session, is very unusual. Specified delays in other countries more commonly refer to the time within which the upper house must consider a bill. In these cases there is generally no time limit on the consideration of a bill in the lower house, but if the upper house does not reach a position within a set period the bill is deemed to have passed automatically. Once the upper house has spoken the lower house has the right to override their view. Thus this delay period is the upper house's strongest weapon. Examples of this system are Poland, where the upper house has 30 days to review legislation, Belgium, where the upper house has 60 days, Austria, where it has eight weeks, and Ireland where it has 90 days.

### **Number of times the bill shuttles**

Another option is that the delay in consideration of a bill by the upper house is not be defined by a time limit, but simply by the time it takes to come onto the order paper and be considered in the upper house. This form of delay will obviously be amplified if the bill is required to shuttle back and forth between chambers in order to reach agreement. The benefits of such a shuttle is that it enables a form of negotiation to take place between the chambers and is thereby more flexible than simply allowing the lower house to overrule the upper house straight away. For example, the lower house might reject amendments from the upper house the first time the bill returns, but if the upper house insists on its amendments they may be accepted second time around to end the delay. The system applies in Britain where a bill may continue to shuttle between the houses until it ultimately falls at the end of the session. In some other countries the number of shuttles is fixed. In some cases such as France, where the bill shuttles three times, this procedure is coupled with a joint committee procedure.

### **Qualified majority in lower house**

A suspensive veto procedure may include the requirement of a qualified majority (eg. absolute majority, 2/3 or 3/4) in the lower house to override the upper house. This



would want to risk aggravating the public with frequent referendums on unimportant matters. However, it would carry this potential risk.

In other countries the referendum may be used as a last resort procedure in the event of a disagreement. For example in Ireland, where the upper house has few powers to challenge the lower house (see above), a majority of Senators has the right to petition the President for a referendum on a bill of 'national importance' which has been passed against their will. However, this power has never been used. In several countries, including Italy and Spain, there is a procedure allowing parliament to initiate a referendum on constitutional bills where these have not gained a certain level of support.

## Joint Session

As mentioned above, the double dissolution procedure in Australia may be coupled with a joint sitting of both houses to resolve a dispute. In other cases this process may be used alone. Such a sitting may offer the first opportunity for members of the two houses to engage together in a discussion on the merits of the bill. The key example of the use of this procedure is India. Here a joint session may be called if the houses disagree on a bill, or if the upper house has failed to pass a bill within six months. The decision in the joint sitting is by a simple majority. As in Australia - and in most other states except the UK - a joint sitting will tend to favour the lower house, as its members are more numerous.

## Joint Committee

The use of a joint committee to resolve a dispute between the chambers - like a joint session - allows members of the two houses to engage directly in a discussion with each other over the bill, and potentially iron out difficulties. Taking this discussion off the floor of the house is likely to create a more constructive and less confrontational atmosphere in which to negotiate. Such committees are in common use overseas, sometimes for all legislation and sometimes for certain categories of legislation only. Examples of countries using joint committees (also often known as 'conference committees') are France, Germany, Japan, Russia, South Africa and USA.

The success of the joint committee in achieving genuine negotiation is, however, varied. The examples of France and Germany help to illustrate this fact.

In **France** the joint committee is used to negotiate agreement on all bills apart from constitutional bills.<sup>4</sup> A bill will have been considered three times by each chamber before the committee is called, or twice if it has been classified as 'urgent'. The committee is charged with devising a compromise position, which is then voted on by both chambers. However, if the chambers cannot agree the lower house has the last word. In the early years of the current parliamentary system the use of the joint committee was relatively rare, and the committee was expected to reach compromise which would be accepted. However, as time has gone on the joint committee has become an increasingly common part of the legislative process - for example in 1988-92 it was called on 39% of bills. It is also increasingly common for the committee to disagree, or for the last word to go to the lower house. In this same period the lower house had the last word on 18% of bills. In many cases the committee will meet for only a few minutes, agree to disagree and refer the matter to the lower house for decision. It is clear that the respect given to the joint committee, and the stigma attached to giving the lower house the last word, have

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<sup>4</sup> Constitutional bills and 'organic' bills are subject to agreement by both houses with a potentially endless shuttle.







chamber, where the party which can garner a majority gets its way. Another is that if the lower house can reject the committee's proposals and get the last word, the committee process may be seen as pointless. There appear to be benefits in the US system of requiring the representatives of each chamber to vote as blocks. Equally the German system where the committee has a permanent membership of senior figures has much to recommend it. In general it seems crucial that such a system is designed to promote genuine compromise between different parties and between the two chambers.