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PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

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Dear Nigel

You asked for a note about the factual position on the consideration of Lords amendments.

The potential procedural variations for dealing with Lords amendments to a Bill originating in the Commons are extremely complex and, in the absence of a binding rule of order, almost infinitely flexible in terms of procedure. But the main outline of the normal procedural framework is as follows:

- (i) Lords Amendment notified to Commons;
- (ii) (a) if Amendment agreed to by Commons, Lords notified and Bill returned to await Royal Assent;
(b) if Commons disagree, they may simply 'disagree' the Amendment, or pass their own amendment.
- (iii) Assuming Commons have made their own amendment in lieu of the disagreed Lords Amendment, Lords notified accordingly, and consider the Commons amendment to the disagreed Lords Amendment; they may either concede, disagree, or amend (including an amendment in lieu of the disagreed Amendment);
- (iv) Commons informed of Lords conclusions, and Commons either accept the Lords amendment to the Commons amendment to the Lords Amendment (or amendment in lieu), or they reject it, or amend it.

In the event of a failure of the two Houses to reach agreement by this point Erskine May states (p 587):

"In order to secure agreement and save the bill, every effort at compromise is usually made, and this interchange of amendments, as has been already stated, can be carried still further. Usually, however, the proceedings do not go beyond this stage, and one House or the other waives its disagreement, or takes a step which results in the bill being lost.

The chain of events by which a bill originating in the Commons and amended by the Lords would normally be lost may be shown as follows:-

The Commons disagree to the amendment with a reason; and
The Lords insist on their amendment with a reason, and
The Commons insist on their disagreement to the amendment, or take no action.

Thus each House has one opportunity of receding from the position which it has taken up, unless it offers alternative proposals. It must be remembered, however, that there is no binding rule of order which governs these proceedings in either House, and if there is a desire to save a bill, some variation in the proceedings may be devised in order to effect this object."

In theoretical, as distinct from practical, procedural terms the position is accordingly that this 'ping-pong' rally could continue indefinitely.



In practice, however, if a complete impasse were reached, and a compromise proved impossible, attention would no doubt turn to the provisions of the Parliament Acts 1911 and 1949.

Basically these provide (Erskine May P 603) that:

"In the case of public bills, other than money bills within the meaning of section 1 of the Act of 1911, a bill which is passed by the House of Commons in two successive sessions (whether of the same Parliament or not), and which, having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of those sessions, shall, on its rejection for the second time by the House of Lords, unless the House of Commons direct to the contrary, be presented to Her Majesty and become an Act of Parliament on the Royal Assent being signified to it. One year must elapse between the second reading of the bill in the House of Commons in the first of these sessions and its passing in the House of Commons in the second session.

By section 2(3) of the Act of 1911 a bill is deemed to be rejected by the House of Lords if it is not passed by that House either without amendment or with such amendments only as may be agreed to by both Houses".

Yours sincerely
Margaret Dimpster

MP ALISON SMITH
Private Secretary