

Course Name - B.A.LL.B 4<sup>TH</sup> sem/

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Subject - Constitution of India

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Concept - Protection of civil servants

## **Functions of Indian Parliament**

The legislative powers of the federal government lie within the parliament of India. Thus, the laws that are framed by the parliament of India are enforced throughout the country. In India, the parliament is divided into two categories, Rajya Sabha and Lok Sabha. Thus, the functions of Indian parliament depend on the various powers given by the government. So, the laws made by the parliament are executed by both the houses.

The functions of parliament are divided based on the powers it has. These are

- Executive powers
- Legislative powers
- Constituent powers
- Judicial powers
- Financial powers
- Electoral powers
- Executive powers

The executive is responsible for the acts and policies of the parliament. This enacted by the parliament form of the government. Thus, there are various measures that the parliament uses to control.

These are questioned hour, committees, zero hours, etc. Furthermore, ministers are also collectively responsible for the measures taken in the parliament.

## **Legislative Powers**

There are many subjects in our constitution and they are divided among the state, union, and concurrent lists. Thus, in the concurrent list, the parliamentary law overrules the legislative law of the state. Furthermore, the constitution also has the powers to make the law in the following circumstances:

- When the national emergency is under the operation.
- When the Rajya Sabha passes a resolution act.
- If it is required by two or more states to request the parliament.
- When the rule of the president is under operation.

- Also, when it is important to give recognition to international treaties, agreements, and conventions.

### **Constituent Powers**

This is a simple function of parliament. Within this power, the parliament can pass any law that is required. Also, it can be done to amend the constitution.

### **Judicial Powers**

Within this power, there are different functions of parliament associated. This power includes functions like

- Removing the vice president
- Impeaching the president in reference to the violation of the constitution
- Punishing various members for breach of privileges like serving as a member while he/she is still under oath. Also, sitting in the house when the member themselves knows that they are not eligible.
- Removing the judges of the high court and supreme court.

### **Financial Powers**

This power has various functions in it. It includes scrutinizing the performance of the government particularly with respect to financial committees. Also, it includes the enactment of the budget.

### **Executive Functions**

The parliament of India also consists of the political executive. There are various ways through which the parliament exerts the control over the executive. This is done through zero hours, question hour, adjournment motion, calling attention motion, etc.

Thus, to establish this, members of various political parties are nominated for the parliamentary discussion. These committees help the parliament to control the government.

It is mentioned in article 75 of the constitution that the council of ministers can stay in the office as far as it does enjoy the confidence of the Lok Sabha. Also, the ministers are responsible for the Lok Sabha individually as well as collectively. Thus, Lok Sabha also has the right to remove the council by passing a no-confidence motion in the Lok Sabha.

### **The bills introduced in the parliament can also be further classified as:**

- 1. Ordinary Bills:** These bills concerned with any matters other than the financial matters.
- 2. Money Bills:** These bills are concerned with the financial matters such as taxation, public

expenditure etc.

**3. Finance Bills:** These bills are concerned with those financial matters which are not included in money bill.

**4. Constitution Amendment Bills:** These are concerned with the amendment of provisions of the constitution.

### **Process of passing bills:**

**1. Ordinary bill-** The five stages through, which an ordinary bill passes to become a law are as follows:

(a) First reading- It includes the introduction of the bill in either of the houses of the Parliament by a minister or by a private member. It is followed by the grant of leave and its publication in the Gazette of India.

(b) Second Reading: At this stage, the bill undergoes detailed scrutiny including discussion of every clause. This stage can be further divided into the stages of general discussion, committee stage and consideration stage.

(c) Third Reading: At this stage, no amendments are allowed. The bill needs to be passed by a simple majority of members present and voting in the House. When bill is authenticated by the presiding officer, it is sent to the other house for consideration and approval.

(d) Bill in the second House: In the second House also, the bill needs to be passed by a simple majority of members present and voting in the House. If the second House passes the bill without any amendments, the bill is sent to the president for his assent.

(e) Assent of the President: If the president gives his assent to the bill, the bill becomes an act and placed on the Statute Book. If the president withholds the assent to the bill, the bill ends.

### **2. Money Bill:**

Under article 110(1) of the Constitution, a bill is deemed to be a money bill if it contains only provisions dealing with imposition, abolition, remission, alteration or regulation of any tax, matters of Consolidated Fund, provides imposition of fines etc. The Speaker's certificate on a money bill once given is final and cannot be challenged. A money bill can be introduced in Lok Sabha only on the recommendation of the President.

### **3. Finance Bills:**

Financial bills are those bills which relate to revenue and expenditure. Financial bills are of three kinds-Money bills-Article 110, financial bills (I) - Article 117 (1), Financial bills (II)-

Article 117 (3). All money bills are financial bills, but all financial bills are not money bills. Financial bill (I) can be introduced only in the Lok Sabha and not in the Rajya Sabha and can be introduced only on the recommendation of the president. Financial bill (II) can be introduced in either House of parliament and recommendation of the President is not necessary for its introduction. Both the houses have power to reject or amend the bill.

#### **4. Constitution Amendment Bills:**

Bills seeking to amend all other provisions of the Constitution including those enumerated in the proviso to article 368(2) are called as Constitution Amendment Bills. These Bills can be introduced in either House of Parliament, but not in the state legislature. These bills do not require prior permission of the president and can be introduced either by a minister or by a private member.

#### **There are three types of constitutional amendment bills:**

- (1) Bills that need to be passed by parliament by simple majority
- (2) Bills that need to be passed by Parliament by the special majority
- (3) Bills that need to be passed by Parliament by the special majority and also to be ratified by not less than one-half of the state legislatures

The table below mentions the different types of bills and their significance:

<b>Types of Bills in India</b>		
<b>S.No</b>	<b>Name of the Bill</b>	<b>Significance</b>
1	<b>Ordinary Bill (Article 107, Article 108)</b>	Concerned with any matter other than financial subjects
2	<b>Money Bill (Article 110)</b>	Concerned with financial matters like taxation, public expenditure, etc
3	<b>Financial Bill (Article 117 [1], Article 117[3])</b>	Concerned with financial matters (but are different from money bills)
4	<b>Constitutional Amendment Bill (Article</b>	Concerned with the amendment of the provisions of the

368)

Constitution.

There are a few differences between these types of bills which are important to

- **Difference between Ordinary Bill and Money Bill in India**

Difference	Ordinary Bill	Money Bill
<b>Introduction</b>	In either Lok Sabha or Rajya Sabha	Only in Lok Sabha
<b>Introduced By</b>	Minister or a Private Member	Only a Minister
<b>President's Recommendation</b>	Not Need	Only after he recommends
<b>Rajya Sabha's Role</b>	<ul style="list-style-type: none"> <li>• Can be amended/rejected by Rajya Sabha</li> </ul>	<ul style="list-style-type: none"> <li>• Cannot be amended/rejected by Rajya Sabha. (It has to return the bill with/without recommendations)</li> </ul>
	<ul style="list-style-type: none"> <li>• Can be detained by the Rajya Sabha for a maximum period of six months.</li> </ul>	<ul style="list-style-type: none"> <li>• Can be detained by the Rajya Sabha for a maximum period of 14 days only.</li> </ul>
<b>President's Assent</b>	Sent for his assent only after being approved by both the houses	Send for his assent only after Lok Sabha's approval. (Rajya Sabha approval is not required)
	Can be rejected, approved, or returned for reconsideration by the President.	Can be rejected or approved but cannot be returned for reconsideration by the President.
<b>Joint Sitting of Both Houses</b>	In case of deadlock, there is a provision of a joint sitting	No chance of disagreement, hence, no provision of a joint sitting

- **Stages of passing an Ordinary Bill**

There are five stages through which an ordinary bill has to go through before it finally becomes an act:

Stages	Details
<p><b>First Reading</b></p>	<p>A minister or a member introduces the bill in either house of the Parliament. He asks for leave before introducing the bill. He reads the title and objective of the bill.</p> <p>After the introduction, the bill is published in the Gazette of India</p> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. No discussion on the bill takes place in this stage</li> <li>2. If the bill is published in the Indian Gazette before its introduction, the minister/member does not have to ask for leave</li> </ol>
<p><b>Second Reading</b></p>	<p>Stage of General Discussion- Four actions can be taken by the house on the bill:</p> <ol style="list-style-type: none"> <li>1. It may take the bill into consideration immediately or on some other fixed date</li> <li>2. It may refer the bill to a <b>select committee</b> of the House</li> <li>3. It may refer the bill to a <b>joint committee</b> of the two Houses</li> <li>4. It may circulate the bill to elicit public opinion</li> </ol> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. Select Committee- Has members of the house where the bill is introduced</li> <li>2. Joint Committee- Has members from both the houses</li> </ol> <p>Committee Stage:</p> <ol style="list-style-type: none"> <li>1. Select Committee examines the bill thoroughly and in detail, clause by clause.</li> <li>2. It can also amend its provisions, but without altering the principles underlying it.</li> <li>3. After completing the scrutiny and discussion, the committee reports the bill back to the House.</li> </ol>

	<p>Consideration Stage:</p> <ol style="list-style-type: none"> <li>1. The House, after receiving the bill from the select committee, considers the provisions of the Bill clause by clause.</li> <li>2. Each clause is discussed and voted upon separately.</li> <li>3. The members can also move amendments and if accepted, they become part of the bill.</li> </ol>
<p><b>Third Reading</b></p>	<p>One of the two actions take place:</p> <ol style="list-style-type: none"> <li>1. Acceptance of the Bill (If the majority of members present and voting accept the bill, the bill is regarded as passed by the House)</li> <li>2. Rejection of the Bill</li> </ol> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. No amendments to the bill are allowed</li> <li>2. A bill is deemed to have been passed by the Parliament only when both the Houses have agreed to it, either with or without amendments.</li> </ol>
<p><b>Bill in the Second House</b></p>	<p>The first three stages are repeated here i.e.:</p> <ol style="list-style-type: none"> <li>1. First Reading</li> <li>2. Second Reading</li> <li>3. Third Reading</li> </ol> <p>The second house can take one of the four actions:</p> <ol style="list-style-type: none"> <li>1. It may pass the bill as sent by the first house (ie, without amendments)</li> <li>2. It may pass the bill with amendments and return it to the first House for reconsideration</li> <li>3. It may reject the bill altogether</li> <li>4. It may not take any action and thus keep the bill pending</li> </ol> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. The bill is deemed to have been passed, if both the houses accept the bill and the amendments</li> <li>2. If the second house takes no action for 6 months, a deadlock appears which is acted upon through a <b>joint sitting</b> (summoned by President) of both the houses</li> </ol>
<p><b>Assent of the</b></p>	<p>One of the three actions can be taken by him:</p>



## President

1. May give his assent to the bill (**The bill becomes an act and is placed on statute book**)
2. May withhold his assent to the bill (The bill ends and does not become an act)
3. May return the bill for reconsideration (The houses can/cannot make amendments and send it back to the President after which he has to give assent)

### Note:

President only enjoys 'Suspensive Veto.' Check Powers of President of India here.

## • Stages of passing a Money Bill

### Money Bill in India

Unlike Ordinary Bill, Money bill is introduced only in Lok Sabha on the recommendation of President which is a must.

The bill, moved on the recommendation of the President and introduced in the Lok Sabha is termed as a government bill.

**Note:** All government bills are introduced only by the minister.

After Lok Sabha passes the bill, it is moved to Rajya Sabha which has only restricted powers. It cannot reject or amend the bill.

### Note:

1. Rajya Sabha has to return the bill within 14 days with or without amendments
2. If it does not return the bill within the prescribed days, the bill is deemed to have been passed
3. Lok Sabha may or may not accept the amendments.

After passing through both the houses, the President's assent is required. He can take two actions:

1. Give assent
2. Withhold assent

**Note:** President can't return the bill for reconsideration

**After President's assent, the bill becomes the act and is published in the Indian Statute Book**

