

THE TWO HOUSES : POWERS AND RELATIONSHIP



Exterior of Central Hall of Parliament House

But for a few exceptions, both Houses of Parliament enjoy similar powers and status under the Constitution. In certain spheres, however, each House has been given some special powers which are not available to the other. Distribution of such powers is based mainly on the nature and composition of the House.

Special Powers of Rajya Sabha

Rajya Sabha which represents the States, enjoys certain special powers under the Constitution. Article 249 of the Constitution provides that Rajya Sabha may pass a resolution, by a majority of not less than two-thirds of the members present and voting, to the effect that it is necessary or expedient in the national interest that Parliament should make a law with respect to any matter enumerated in the State List. Then, Parliament is empowered to make a law on the subject specified in the resolution for the whole or any part of the

territory of India. Such a resolution remains in force for a maximum period of one year but this period can be extended by one year at a time by passing a further resolution.

Again, under article 312 of the Constitution, if Rajya Sabha passes a resolution by a majority of not less than two-thirds of the members present and voting declaring that it is necessary or expedient in the national interest to create one or more All India Services common to the Union and the States, Parliament has the power to create by law such services.

Under the Constitution, President is empowered to issue Proclamations in the event of national emergency (article 352), in the event of failure of constitutional machinery in a State (article 356), or in the case of financial emergency (article 360). Normally, every such Proclamation has to be approved by both Houses of Parliament within

To pass a resolution under article 249 of the Constitution enabling Parliament to legislate on any subject enumerated in the State List.

To pass a resolution under article 312 of the Constitution enabling Parliament to create one or more All India Services common to the Union and the States.

If a proclamation is issued for imposing national emergency (article 352) or failure of Constitutional machinery in a State (article 356) or financial emergency (article 360), at a time when Lok Sabha has been dissolved then the proclamation remains effective even if it is approved by Rajya Sabha alone.

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The Council of Ministers shall be collectively responsible to the House of the People.

Article 75(3)

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Interior of Parliament House

a stipulated period. Under certain circumstances, however, Rajya Sabha enjoys special powers in this regard. If a Proclamation is issued at a time when Lok Sabha has been dissolved or the dissolution of Lok Sabha takes place within the period allowed for its approval, then the Proclamation can remain effective if a resolution approving it, is passed by Rajya Sabha.

Special Powers of Lok Sabha

Lok Sabha enjoys special powers in regard to the 'collective responsibility' of the Government and in financial matters. The Constitution provides that the Council of Ministers shall be collectively responsible to the House of the People (Lok Sabha). The power to control the purse also lies with Lok Sabha. A Money Bill has to be introduced only in Lok Sabha. Similarly, Demands for Grants of the various Ministries are also made to, discussed and voted in Lok Sabha.

Relationship of the two Houses


As mentioned earlier, a Money Bill can be introduced only in Lok Sabha. After it is passed by that House, it is transmitted to Rajya Sabha for its concurrence or recommendation. The power of Rajya Sabha in respect of such a Bill is limited with regard to the duration of its retention and making amendments thereto.

Rajya Sabha has to return such a Bill to Lok Sabha within a period of fourteen days from its receipt. If it is not returned to Lok Sabha within that time, Bill is deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by Lok Sabha. Again, Rajya Sabha cannot amend a Money Bill directly; it can only recommend amendments in such a Bill. Lok Sabha may either accept or reject all or any of the recommendations made by Rajya Sabha. If Lok Sabha accepts any of the recommendations made by Rajya Sabha, the Bill is deemed to have been passed by both Houses with the amendments so recommended and accepted.

If, however, Lok Sabha does not accept any of the recommendations of Rajya Sabha, the Money Bill is deemed to have been passed by both Houses of Parliament in the form in which it was passed by Lok Sabha without any of the amendments recommended by Rajya Sabha.

Apart from a Money Bill, certain other categories of Financial Bills also cannot be introduced in Rajya Sabha but there is no other limitation on the powers of Rajya Sabha with regard to such Bills and Rajya Sabha has powers to reject or amend such Financial Bills like any other Bill.

From all this, however, it does not follow that Rajya Sabha has nothing to do in matters



“ Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India. The successful working of our Constitution, as of any democratic structure, demands the closest cooperation between the two Houses.

Pandit Jawaharlal Nehru
First Prime Minister of India



relating to finance. The Budget of the Government of India is laid every year before Rajya Sabha also and its members discuss it. Though Rajya Sabha does not vote on Demands for Grants of various Ministries – a matter exclusively reserved for Lok Sabha. However, members of Rajya Sabha are also represented in the Department-related Parliamentary Standing Committees which *inter alia* consider Demands for Grants of the related Ministries/Departments. The Appropriation Bill and the annual Finance Bill also pass through Rajya Sabha which can make recommendations that may or may not be accepted by Lok Sabha.

In the sphere of law making, both Houses enjoy equal powers as originating and revising chambers. All Bills (other than Money Bills or

Finance Bills) including the Constitution Amendment Bills, may originate in either House of Parliament. A Bill introduced by the Minister is known as the Government Bill and a Bill introduced by a private member is known as private member's Bill. The procedure for the passage of the Bills is similar in both the cases. A Bill has to pass through three stages known as the first reading, second reading and third reading, in each House of Parliament and receive the assent of the President before it becomes an Act of Parliament. A Bill shall not be deemed to have been passed by Parliament, unless it has been agreed to by both Houses, either without amendment or with amendments agreed to by both Houses.

Council of Ministers is collectively responsible to Lok Sabha and remains in power as long as it enjoys confidence of the House.

Confidence or no-confidence motion can only be moved in Lok Sabha and passed by it.

Lok Sabha controls the purse of the Government. Therefore, a Money Bill can only be introduced in Lok Sabha. Similarly, Demands for Grants of Ministries/Departments can be voted only in Lok Sabha.

LEGISLATIVE PROCESS

FIRST READING

Introduction of a Bill*
Publication of the Bill in Official Gazette

SECOND READING

FIRST STAGE

In the first stage there is discussion on the principles and provisions of the Bill and a motion is passed that: -

it be taken into consideration by the House; or

it be referred to Select Committee of Rajya Sabha; or

it be referred to Joint Committee of the Houses with the concurrence of Lok Sabha; or

it be circulated for eliciting public opinion

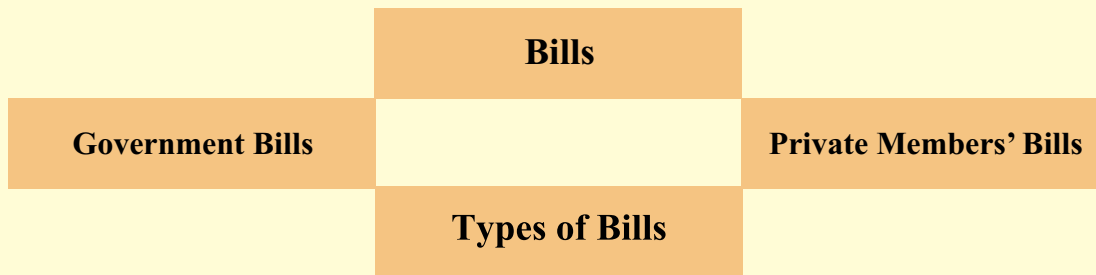
SECOND STAGE

Clause by clause consideration of the Bill as introduced or as reported by the Select/Joint Committee

THIRD READING

Discussion of motion that the Bill (or the Bill as amended) be passed or returned (to the Lok Sabha, in case of a Money Bill)

*Since the inception of Department - related Standing Committees, a new practice has evolved. Nowadays, generally, Bills are referred to the concerned Department-related Committees for examination and report thereon by the Presiding Officers once they are introduced in the House.



- Original Bills (having new proposals, ideas or policies)
- Amending Bills (which seek to modify, amend or revise existing Acts)
- Consolidating Bills (which seek to consolidate existing Acts)
- Expiring Laws (Continuance) Bills (which seek to continue Acts which would expire after a specific date)
- Repealing and Amending Bills (which seek to repeal outdated Acts)
- Validating Bills (which seek to give validity to certain actions)
- Bills to replace Ordinances
- Money and Financial Bills
- Constitution Amending Bills

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We are for the first time starting, under the new parliamentary system, with a Second Chamber in the Centre, and we should try to do everything in our power to justify to the public of this country that a Second Chamber is essential to prevent hasty legislation

Dr. Sarvepalli Radhakrishnan

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Inside view of Central Hall of Parliament House

There is a possibility of disagreement between the two Houses on a Bill. Such a disagreement may arise when (i) a Bill passed by one House is rejected by the other House; or (ii) the Houses have finally disagreed as to the amendments to be made in the Bill; or (iii) more than six months elapse from the date of reception of the Bill by the other House without the Bill being passed by it. To resolve the deadlock on a Bill between the two Houses, the Constitution makes provision for the joint sitting of both Houses which may be summoned by the President. If at the joint sitting of the two Houses, the Bill is passed by the majority of the total number of members of both Houses present and voting, it shall be deemed to have been passed by both Houses.

There is no provision for a joint sitting of both Houses on Money Bills.

In the history of Indian Parliament, there have been three occasions when both Houses have sat for a joint sitting to resolve such a deadlock.

Both Houses possess equal powers with regard to a Constitution Amendment Bill. A Bill to amend the Constitution has to be passed by each House of Parliament separately by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of that House present and voting. Some of these Constitution Amendment Bills also require to be ratified by the Legislatures of not less than one-half of the States. There is no provision for a joint sitting with regard to a Constitution Amendment Bill if a deadlock were to arise between the two Houses either due to rejection of such a Bill in one House or both Houses not agreeing to the amendments to be made in such a Bill.

As mentioned, Ministers may belong to either House of Parliament. The Constitution does not make any distinction between the Houses in this regard. Every Minister has the right to speak in and take part in the proceedings of either House but he is entitled to vote only in the House of which he is a member.

Joint Sitzings

**6 and 9 May 1961
on Dowry Prohibition
Bill, 1959**

**17 May 1978
on Banking Service
Commission (Repeal)
Bill, 1977**

**26 March 2002
on Prevention of
Terrorism Bill, 2002**



Exterior of Parliament House

“No member of Parliament shall be liable to any proceedings in any court in respect of any thing said or any vote given by him in Parliament or any committee thereof, and no person, shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

Article 105(2)

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Similarly, with regard to powers, privileges and immunities of the Houses of Parliament, their members and Committees thereof, the two Houses are placed on equal footing by the Constitution.

Other important matters in respect of which both Houses enjoy equal powers are election and impeachment of the President, election of the Vice-President, approving the Proclamation of emergency and the Proclamation regarding failure of constitutional machinery in States and in respect of receiving reports and papers from various statutory authorities, etc.

It is thus clear that except in the case of collective responsibility of the Cabinet and certain financial matters (which fall in the domain of Lok Sabha only), both Houses enjoy equal powers. Emphasising that neither House of the Indian Parliament was superior to the other and that each House had to perform the specific functions allotted to it by the Constitution, Shri Jawaharlal Nehru, the first

Prime Minister of India, once observed :

“To call either of these Houses an Upper House or a Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India... There can be no constitutional differences between the two Houses because the final authority is the Constitution itself. The Constitution treats the two Houses equally except in financial matters which are to be the sole purview of the House of the People.”

Over the years, both Houses have functioned in a spirit of cooperation and the disagreements between the two have been few and far between either in regard to legislation or otherwise.



Rajya Sabha Chamber

PREDOMINANCE OF PARLIAMENT IN LEGISLATIVE FIELD

The scheme of distribution of subject-matters of laws between the Centre and the States, followed in the Constitution emphasizes in many ways the general predominance of Parliament in the legislative field. While a State Legislature can make laws only for the whole or any part of the State territory, Parliament has power to legislate for the whole or any part of the territory of India.

The Seventh Schedule to the Constitution contains an elaborate enumeration of subjects distributed among three Lists defining legislative relations between Parliament and the State Legislatures. While Parliament has exclusive power to make laws with respect to the subjects included in the Union List, Legislature of the State has exclusive power to make laws (for such State) with respect to the matters enumerated in the State List. On matters included in the Concurrent List, both

Parliament and State Legislatures can make laws. Further, Parliament enjoys exclusive power to make laws on subjects not mentioned in any of these three Lists.

Apart from the wide range of subjects allotted to Parliament and the State Legislatures in the Seventh Schedule to the Constitution, even in normal times Parliament can, under certain circumstances, assume legislative power over a subject falling within the sphere exclusively reserved for the States. If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament, the law made by Parliament, whether passed before or after the law made by the Legislature of the State, prevails and the law made by the Legislature of the State to the extent of repugnancy becomes inoperative.

Further, in times of grave emergency when the security of India or any part thereof is threatened by war or external aggression or

Seventh Schedule to the Constitution

**Union List
(97 subjects)**

**State List
(66 subjects)**

**Concurrent List
(47 subjects)**