Indian Parliament

The Union Parliament consists of the President and two Houses Lok Sabha and Rajya Sabha.

Rajya Sabha Composition: It consists of not more than 250 members, out of which 238 are elected and the remaining 12 nominated by the President for their special contribution to art, literature, science and social services. The elected members are chosen by the State Assemblies in accordance with the system of proportional representation by means of a single transferable vote. The allocation of seats among the States is not on the basis of equality of representation. In the case of Union Territories members are chosen in such a manner as the Parliament by law determines. A candidate for election to the Council of States (Rajya Sabha) must be a citizen of India: not less than 30 years of age not holding any office of profit under the Government: And ordinarily a resident of the State from which he is contesting. Duration: The Council of States is a permanent body, not subject to dissolution. The term of office for its members is six years, one third of the members retiring after every second year. Other Provisions: The Vice President of India is ex-officio Chairman of the Council of States. The Council elects one of its members as Deputy Chairman. Who presides over its meetings in the absence of the Vice President, But whenever the Council is considering a Resolution for the removal of the Vice President or the Deputy Chairman from his office. These officers shall not preside over the sitting of the House, nor can they carry on the resolution, though they are entitled to speak. Powers and Functions: With regard to legislative powers, the authority of the Rajya Sabha is co-extensive with that of the Lok Sabha. No measure can become a law. Unless it has been passed by the Rajya Sabha. It exercises control over the Union Administration by seeking information. By means of questions and supplementaries by moving resolutions or motions of adjournment or censure. But it cannot oust the Ministry from office. As regards the Money Bills. These cannot be introduced in the Council of States. Also when a Money Bill is passed by the Lok Sabha and transmitted to the Rajya Sabha, the iatt2r can delay the Bill for 14 days. It cannot reject the Bill.

Lok Sabha Composition: It consists of not more than 552 members, out of which 530 members are elected from States and not more than 20 members from the Union Territories and tribal areas. At present there are 543 elected members. The representatives of the Union Territories are to be chosen in such manner as the Parliament may, by law, provide. The President can also nominate two Members to Lok Sabha to represent the Anglo-Indian community if, in his opinion, it is not adequately represented. Art. 331 A member for election to Lok Sabha must be a citizen of India not less than 25 years of age not holding any office of profit. The number of seats to each State is so allotted that the ratio between the members and population, as far as practicable, is the some for each State. Each member of the House should represent not less than lakh citizens. Tenure: Lok Sabha has a tenure of 5 years unless dissolved earlier. But while a Proclamation of Emergency under Art. 352 is in operation, this period may be extended for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the proclamation has ceased to operate.

Disqualification of Members of Parliament A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament: if he holds any such office of profit under the Government of India or Government of State, as is declared by Parliament. By law to disqualify its holder if he is of unsound mind and stands so declared by a competent court if he is an undischarged insolvent if he is not a citizen of India or has voluntarily acquired citizenship of a foreign State if he is so disqualified by any law made by Parliament.

Powers and Functions of Parliament Functions Its main function is to enact laws for the good government of the country. It can pass a vote of No-confidence and thus dismiss the Government in power. It controls the finances of the Union. The members can elicit information by asking questions and supplementary. The members can move adjournment motions and thus criticize the government. It can impeach the President in case he violates the Constitution. Maximum Gap between two sessions of Parliament is 6 months under Art. 85 (1).

President

Article 52 says that There shall be a President of India. Article 53 says that the executive powers of the Union shall be vested in the President. He is only a nominal executive head. The constitution lays down the following conditions of the President's office: He should not be a member of either the Parliament or the State legislature He should not hold any other office of profit His emoluments, allowances and privileges shall be determined by the Parliament His emoluments and allowances shall not be diminished during his term of office. In case, a member of either House of the Parliament or a State Legislature of any State is elected as President, shall be deemed to have vacated his seat in that House on the day he enters his office as the President. The President is entitled, without payment of rent, to use his official residence. The oath of the office of the President is administered by the Chief Justice of India and in his absence, the senior most judge of the Supreme Court available. The President holds office for a term of five Years. Any resignation addressed to the Vice-President shall forthwith be communicated by him to the Speaker of the Lok Sabha. He can also be removed from the office before completion of his term by i m p each me n t for violation of the Constitution.

The impeachment charges can be initiated in either House of the Parliament. The impeachment motion can be introduced only when not less than one-fourth of the total number of members of the originating House have signed the proposal and a 14 days prior notice should be given to the President.

Impeachment

After the impeachment motion is passed by a majority not less than two-thirds of the total membership of that House, it moves to the other House which shall investigate the charges. The President shall have the right to appear and to be represented at such investigations. If the other House also sustains the charges and passes the impeachment motion by a majority of two-thirds of the total membership of that House, then the President stands impeached from his office from the date on which the motion is so passed. The impeachment process is quasi-judicial in nature. When a vacancy occurs in the office of the President due to his death, resignation or impeachment or otherwise, the Vice-President acts as the President until a new President assumes the office. When the Vice-President is acting as the President or discharging the functions of the President, he shall have all the powers and immunities of the President and shall be entitled to such emoluments, allowances and privileges as determined by the Parliament. In the normal circumstances election to fill the vacancy caused by expiration of the term of the office of the President shall be completed before the expiration of that term. An election to fill the vacancy in the office of the President occurring due to his death, resignation or impeachment or otherwise, shall be held within six months from the date of the occurrence of such a vacancy.

Executive Powers of the President

All the executive actions of the Government of India are formally taken in his name. He can make rules specifying the manner in which the orders and the other instruments made and executed in his name shall be authenticated. He can make rules for more convenient transaction of business of the Union Government, and for allocation among the Ministers, of the said business. He appoints the Prime Minister, and the other Ministers on the advice of the Prime Minister. The Ministers hold the office during, the pleasure of the President. He appoints the Attorney-General of India and determines his remuneration. The Attorney-General holds office during the pleasure of the President. He appoints the Comptroller and Auditor-General of India, the Chief Election Commissioner and other Election Commissioners, the Chairman and Members of the Union Public Service Commission, the Governors of the States, the Chairman and the Members of the Finance Commissions, and so on: He can seek any information relating to the administration of affairs of the Union, and proposals for legislation from the Prime Minister (Article 78). He can require the Prime Minister to submit, for consideration of the Council of Ministers, any matter on which the decision has been taken by a Minister but which has not been considered by the Council. He can appoint a Commission to investigate into the conditions of the SCs, the STs, and the OBCs. He can appoint the Inter-State Council to promote the Centre-State and the Inter-State coalition. He directly administers the Union Territories through either the Lt. Governor or the Commissioner or the Administrator.

Legislative Powers

The President is an integral part of the Parliament of India (Article 79). In this capacity, he enjoys the following legislative powers. He can summon or prorogue both the Houses of the Parliament and dissolve the Lok Sabha. He can summon a joint sitting of both the Houses of the Parliament, which is presided over by the Speaker of the Lok Sabha. He can address both the Houses of the Parliament at the commencement of the first session after each general election and the first session of each year. He can send messages to both the Houses of the Parliament, whether with respect to a bill pending in the Parliament or otherwise. He can appoint any member of the Lok Sabha to preside over its proceedings when the offices of both, the Speaker and the Deputy Speaker fall vacant simultaneously. He can also appoint any member of the Rajya Sabha to preside over its proceedings when the offices of both, the Chairman and the Deputy Chairman fall vacant simultaneously. He nominates 12 members to the Rajya Sabha from amongst the persons having special knowledge or practical experience in respect of Literature, Science, Arts and Social Services. He can nominate 2 members to the Lok Sabha from the Anglo-Indian Community. He decides on questions as to the qualifications of the members of the Parliament, in consultation with the Election Commission. His prior recommendation or permission is needed to introduce certain types of bills in the Parliament. When a bill is sent to the President after it has been passed by the Parliament, he can: Give his assent to the bill, or Withhold his assent to the bill, or Return the bill (if it is not Attorney Bill or a Constitutional Amendment Bill 1) for reconsideration of the Parliament. However, if the bill is again passed by the Parliament, with or without amendments, the President has to give his assent to the bill. The President has the option of veto with respect to the bills passed by the Parliament. The veto power enjoyed by the President of India is a combination of absolute, suspensive and pocket vetos. When a bill passed by a State legislature is reserved by the Governor for consideration of the President, the President can Give his assent to the Bill, or Withhold his assent to the Bill, or Direct the Governor to return the Bill (if it is not a Money Bill) for reconsideration of the State Legislature. Note: It is not obligatory for the President to give his assent even if the Bill is again passed by the State legislature and sent again to him for his consideration. Thus, the President enjoys absolute veto over State Bills. He can promulgate ordinances when both the Houses of the Parliament are not in session (Article 123). These ordinances must be approved by the Parliament within the six weeks of its reassembly. He can also withdraw an ordinance any time. The ordinance can be effective, for a maximum period of 6 months and 6 weeks (not 7V2jnonths) in case of non-approval by the Parliament (This is a hypothetical possibility where we assume Parliament did not meet for 6 months.). He lays the reports of the Comptroller and Auditor-General, the Union Public Service Commission, the Finance Commission, and others, before the Parliament.

Emergency Powers

National Emergency On the grounds of security threat to India by war, external aggression or armed rebellion. He can give directions to any State with regard to the manner in which the States'Executive Powers are to be exercised. He can modify the pattern of the distribution of financial resources between the Union and the States. He can extend the normal tenure of the Lok Sabha by one year at a time. He can suspend the Fundamental Rights of citizens except the Right to protection in respect of conviction for offences (Art 20) the Right to life and personal liberty (Art 21). Article 19 can only be suspended in case of external emergency and not in the case of internal emergency (armed rebellion). The Parliament can make laws on items mentioned jn the State list during the period of National Emergency. Such laws are valid upto a maximum period of six months after the expiry of the Emergency.

State Emergency

The President's rule is also known as the Constitutional Emergency or the State Emergency. It can be proclaimed by the President on the failure of the Constitutional machinery in the State (Article 356), or failure to comply with or to give effect to the directions given by the Union (Article 365). The President's rule can be imposed when the President is satisfied, on the basis of either a report of the State Governor or otherwise, that the Governance of the State cannot be carried on in accordance with the provisions of the Constitution. The proclamation of the President's rule should be approved by the Parliament within two months. If approved, it remains in force for six months from the date of proclamation of the State Emergency. It can be extended for a maximum period of three years with the approval of the Parliament every six months. However, beyond the first year, it can be extended by six months at a time only when the following two conditions are fulfilled: A proclamation of National Emergency should be in operation in the entire country, or in the whole or any part of the concerned State; and The Election Commission must certify that the general elections to the concerned State Legislative Assembly cannot be held on account of difficulties. When the President's rule is imposed in a State, the President can assign to himself all or any of the functions of the State Government and all or any of the powers vested in the Governor or any body or authority in the State. He can declare that the powers of the State Legislature shall be exercisable by or under the authority of the Parliament. He can authorize, when the Lok Sabha is not in session, expenditure from the Consolidated Fund of the State, pending the sanction of such expenditure by the Parliament. He can promulgate ordinances for the administration of the State when the Houses of the Parliament are not in session. The State Governor, on behalf of the President, carries on the State administration with the help of the advisors appointed by the President or the Chief Secretary of the State. The President cannot interfere with the jurisdiction of the concerned State High Court. The Constitutional status, position, powers and functions of the concerned State High Court are not affected by such a proclamation. The President's rule has been imposed more than 100 times. The President's rule has been imposed around 50 times during the period of Mrs. Indira Gandhi.

Financial Emergency

The President can proclaim Financial Emergency if he is satisfied that the financial stability or credit of India or any part thereof is threatened. Such a proclamation must be approved by the Parliament within two months. When a Financial Emergency is proclaimed, the President can give directions to the States to\_observe the canons of financial propriety. He can issue directions for the reduction of salaries and allowances of all or any class of persons serving under the State. He ensures that all Money Bills and other Financial Bills passed by the State Legislatures be reserved for his consideration. He can issue directions for the reduction of salaries and allowances of all or any class of the persons serving in connection with the affairs of the Union, including the judges of the Supreme Court and the High Courts. Financial Emergency has not been declared so far. Financial Powers Money bill can be introduced in the Parliament only with his prior recommendation. He causes to be laid before the Parliament the Annual Financial Statement (i.e.. Union Budget) under Article 112. No Demand for a grant can be made except on his recommendation. He can make advances out of the Contingency Fund of India to meet any unforeseen expenditure. He constitutes a Finance Commission after every five years to recommend the distribution of the taxes between the Centre and the States.

Diplomatic Powers

The international treaties and agreements are negotiated and concluded on behalf of the President. They are subject to the approval of the Parliament. He sends and receives Diplomats like Ambassadors, High Commissioners, and so on: Military Powers He is the Supreme Commander of the Defence Forces of India. He appoints the Chiefs of the Army, the Navy and the Air Force. He can declare war or conclude peace subject to the approval of the Parliament. Judicial Powers He appoints the Chief Justice and the judges of the Supreme Court and Zonal High Courts. He can seek advice from the Supreme Court on any question of law or fact (Article 143). The advice rendered by the Supreme Court is not binding on the President. He can grant pardon, reprieve, respite and remission of punishment, or suspend, remit or commute the sentence of any person convicted of any offence: In all the cases where the punishment or sentence is by a court martial; In all the cases where the punishment or the sentence is for an offence against any law relating to matter to which the executive power of the Union extends; and In all the cases where the sentence is a sentence of death. Constitutional Position of the President The President has been made only a nominal executive; the real executive is the Council of Ministers headed by the Prime Minister. The President has to exercise his powers and functions with the aid and advice of the Council of Ministers headed by the Prime Minister (Article 74). The 42nd Constitutional Amendment Act of 1976 has made the President bound by the advice of the Council of Ministers headed by the Prime Minister (Article 78).