

Polity Class 27

19th October, 2023 at 9:00 AM

REMOVAL OF THE PRESIDENT (09:14 AM)

- **Grounds for impeachment:**
- **Violation of the constitution**
- **No specific definition of it has been provided in the Constitution, nor has the court had the opportunity to define this term.**
- **In a general sense, it refers to an act that is grossly against the provisions of the Constitution.**
- **Procedure of the impeachment**
- **Resolution can be brought in in either house i.e. Lok Sabha and Rajya Sabha.**
- **The resolution must be signed by one-fourth of the members of the House, and the President must be given 14 days' notice.**
- **Such a resolution needs to be passed by a two-thirds majority of the total membership of that House.**
- **Once the resolution is passed in one house, it will go to the other house of the Parliament. It acts as an investigating house.**
- **The President has the right to appear or to be represented.**
- **If the other House also upholds the charges and passes the impeachment resolution by a two-thirds vote of the total membership, the President stands impeached.**
- **Impeachment of the President of the USA**
- **According to the Constitution of the USA, the President may be removed on the grounds of treason, bribery or other higher crimes of a similar nature.**
- **The removal process can be initiated by any member of the House of Representatives and if a simple majority of the House supports the impeachment the process shall progress to the trial stage.**
- **At the trial stage, the Chief Justice of the Supreme Court presides over the trial where the members of the House of Representatives form the prosecution.**
- **If at the end of the trial, two-thirds of senators find the President guilty, he shall be removed from office.**
- **Vacancy in office of President of India**
- **Resignation- it is submitted to the Vice President and informed to the speaker of Lok Sabha.**
- **Impeachment**
- **Death**

- Above mentioned cases are called as casual vacancies.
- In such cases, an election must be conducted within six months.
- End of Tenure- election to the office of President is conducted before the end of tenure.

REMOVAL OF VICE PRESIDENT (VP) (09:42 AM)

- The Chairman of the Rajya Sabha acts as Vice President.
- Mentioned under Article 67(b).
- Resolution for Removal can be initiated only in Rajya Sabha and at least 14 days' notice is given before removal.
- The Constitution does not provide any ground for the removal of the Vice President of India.
- The effective majority is required for removal i.e. majority of the then membership of the house.
- VP shall have the right to take part in the proceedings but can not vote.
- The Deputy Chairman shall preside over the proceedings of the house.
- LS approval is required in the form of a simple majority after the resolution is passed by RS.
- Other reasons for the rise of vacancies in the office of VP-
 - Resignation
 - Removal
 - Death
 - End of Tenure

POWERS OF PRESIDENT OF INDIA (09:52 AM)

- Legislative powers:
- Summoning and proroguing power
- No session of the Parliament can begin without the issue of summons to both houses of the Parliament.
- President exercise this power with the aid and advice of the Parliament.
- It is the constitutional duty of the President to ensure that not more than six months shall elapse between two sessions of the Parliament.
- Thus, a minimum of two sessions are held in a year.
- The President may also issue orders for the prorogation of the houses of the Parliament.

- A session of the house is brought to an end through the order of Prorogation issued by the President.
- The President can issue orders for the dissolution of the House of People.
- **Nomination powers:** The President has the power to nominate members having special knowledge and experience in the area of literature, arts, science and social service to the Rajya Sabha on the advice of CoM.
- Earlier, The President could nominate up to two members from the Anglo-Indian community to the LS.
- **Article 86:** The President has powers to address either one or both the houses of the Parliament and also to send messages to the Parliament with respect to legislation pending in the Parliament.
- This provision has never been used in the history of India. It was adopted from the American Constitution to ensure effective communication between the executive and the legislature but in India's context, it does not hold much relevance as the legislature and executive go hand in hand with each other.
- **Addressing the houses**
- The President is supposed to make an address to both houses of Parliament assembled together to discuss and elaborate upon the plans of the Govt and its achievements.
- This address is supposed to be made on two occasions-
- At the first sitting of the newly elected Lok Sabha
- At the first sitting of Parliament every year.
- The speech made by the President is an expression of the policies, the agenda and the plans of the executive.
- The President's address is followed by a discussion in both houses separately after which the members may move amendments to the speech that may be accepted or rejected as per the vote of the house.
- Finally, the entire speech is put to a vote in both the house which is referred to as a Vote of Thanks to the President's speech. In case the Vote of the Thanks is defeated in the LS, it is considered a defeat of the CoM and they must resign.
- Therefore one can say that another objective of the vote of thanks is to prove the majority of the CoM in the LS.

ORDINANCE MAKING POWERS (10:52 AM)

- It is a legislative power provided to the executive and should be exercised in extraordinary circumstances when immediate action is required according to the executive.
- An ordinance promulgated by the President shall have the same effect as the law of the Parliament and it should be exercised only as a temporary measure.

- Several inherent dangers are associated with the use of ordinance-making powers:
- It dilutes the principle of separation of powers.
- The Govt may use this route to avoid discussion in the legislature on a bill that may generate adverse reactions.
- A minority govt in the Lok Sabha may use the ordinance route to avoid exposing its status in the Legislature.
- In order to address the above dangers a few checks and balances have been placed on the ordinance-making powers:
- President can promulgate ordinances only on those matters on which Parliament is competent to make a law.
- An ordinance shall remain in effect for up to six weeks after the reassembly of both houses of the Parliament.
- It can be issued only when either one or both houses are not in session.
- Both houses can pass a resolution during the six-week period disapproving the ordinance.
- An ordinance promulgated shall be subject to the limitation of the Constitution and therefore can not violate either the fundamental rights or the basic principles of the Constitution.
- An ordinance can not be used for amending the Constitution.
- The President can issue an order for the withdrawal of an order at any point in time before its expiry.
- As per a Parliamentary convention, a govt while placing an ordinance for approval must accompany it along with a statement of reasons justifying its introduction.
- Re promulgation of an ordinance-
- The constitution of India is silent about whether re-promulgation of an ordinance is possible or not.
- The Courts and the legislature have interpreted that it is possible.
- In Bihar, 256 ordinances were promulgated between 1967 and 1981 and were kept alive by re-promulgation for a period ranging between one to 14 years. Out of these 69 ordinances were re-promulgated several times.
- In *DC Wadhwa vs State of Bihar*, the court noted that the exercise of re-promulgation is justified if the legislature is overburdened with work or if the session of the legislature was too short for it to consider an ordinance.
- In all the other cases when re-promulgation is done to avoid the scrutiny of the legislature, it shall be considered an unconstitutional exercise.
- There has been a considerable increase in the promulgation of ordinances since the 1950s.

- In the 1950s, central ordinances were issued at an average of 7.1 per year but during the 1990s the rate was 19.6 per year.
- In 2019, 16 ordinances were issued and in 2020 the number stood at 15.
- The land acquisition ordinance issued in 2015 was re-promulgated twice.
- The security law (amendment ordinance) was promulgated 3 times.
- Recently, the central Govt re-promulgated the Commission for Air Quality Management in NCR Ordinance 2020.
- One may therefore say that the Supreme Court verdict in the DC Wadhwa case has provided an excuse to the executive to re-promulgate an ordinance on account of over burdened nature of work or by calling or by calling a shorter session of the legislature.

VETO POWERS OF THE PRESIDENT (12:00 PM)

- For a bill to become an act, it must get the approval of the President of India.
- In case a bill is presented to the President for his approval, according to Article 111, he may either give his assent to the bill or withhold the assent or send the bill back to the Parliament for its reconsideration if it is not money bill.
- Some of these actions may be performed by the president at his discretion. Collectively such powers of the President are called as Veto powers.
- **Suspensive Veto-**
- A bill passed by the Parliament may be sent back for the reconsideration of the Parliament along with the message by the President.
- But if the Parliament send the bill back to the President, the President is supposed to provide his assent to the bill in whatever form it was passed by the Parliament.
- It is a discretionary power and can not be exercised in case of money bills.
- **Pocket Veto-**
- Article 111 does not prescribe any time limit to give assent to a bill. Therefore, he may delay giving his assent for an indefinite period of time. This is a discretionary power of the President and should be exercised only in exceptional circumstances.
- For e.g. in 1986, the President exercised his veto on an Indian post office amendment bill and did not provide assent till the end of his tenure.
- The American President has to provide approval for a bill within 10 days otherwise the bill is deemed approved by the President.
- Therefore one can say that the pocket of the Indian President is bigger than that of the USA's President.
- **Absolute Veto-**

- A bill introduced by a previous govt pending the approval of the President may be rejected by a newly elected CoM. Such a power is supposed to be exercised only with the aid and advice of the CoM.

TOPIC OF THE NEXT CLASS- PRESIDENT (TO CONTINUE)