

Interpreting Taxing Statutes # 4 – Passage of Bill

The text of a Bill must be agreed to by the legislatures before it can receive the assent of the Constitutional Head.¹

SYNOPSIS

Passing of Bills

Recommendation of bill

Special consideration in passing of a money bill

President's assent

Passing of Bills²

Introduction of Bills - The choice of the House in which a Bill (other than a Money Bill) is to be introduced is often a matter of convenience depending upon the state of parliamentary business or a matter of tactics. But more often than not, a Minister in charge of a Bill may feel that the Bill which he is sponsoring is of such a nature that it should be considered in the first instance by the directly elected representatives of the people in the Lok Sabha, barring Bills coming within articles 109 and 117(1), which may conveniently be referred to as financial Bills, all other Bills may originate in either House of Parliament.

Formal motion - Once the proof copies of Bills to be introduced in either House of Parliament are sent to that House by the Ministry of Law, the House takes charge. On the day the Bills are put down on the agenda for introduction, the Minister in charge of the Bill makes a formal motion for introduction which is seldom opposed. The next motion in respect of the Bill may be (a) that it be taken into consideration, (b) that it be referred to a Select Committee of the House, (c) that it, (not being a financial

¹ Bennion s 2.10

² Based primarily on Rajgopaul 1980

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Bill) be referred to a Joint Committee of both Houses with the concurrence of the other House or (d) that it be circulated for eliciting public opinion.

**Select or joint committee** - If a Bill is referred to a Select or Joint Committee, the draftsman who prepared the Bill attends all meetings thereof and is responsible for revising the Bill in the light of the decisions taken at those meetings. Although not a member of the Committee, he is often permitted to explain the legal issues involved. The report of the Select or Joint Committee is prepared in the Parliament Secretariat but from the very nature of things that Secretariat has to work in close collaboration with the draftsman concerned.

**Second reading** - When a Bill (whether it has been examined by a Select or Joint Committee or otherwise) comes up before either House for consideration, it is in its second reading stage and it is open to the members to move amendments which are within the scope of the Bill and relevant to the subject matter of the clause to which they relate. There are rules regarding admissibility of amendments and also notices thereof in order to afford the Minister concerned an opportunity to consider them. The draftsman is generally available in the official lobby during the progress of the Bills with which he is concerned to advise the Minister in charge as to whether any amendment may or may not be accepted and, if it is to be accepted, in what form and so on. In spite of the rules relating to notice of amendments, very often the progress of a Bill is so rapid that the draftsman obtains no opportunity of examining the effect of a proposed amendment or repairing any damage done by the hasty acceptance of an ill drafted amendment. Moreover, a hastily drawn up amendment during the course of an excited debate in the House may not

always come right even if prepared or vetted by the official draftsman.

**Third reading** – The last motion in respect of a Bill is that it be passed with or without amendment as the case may be. This is the third reading stage. Discussion at this stage is confined to arguments in support of or against the Bill as amended or otherwise. As soon as a Bill is passed by one House it is transmitted to the other House for concurrence with a message to that effect. Under article 107, a Bill is deemed to have been passed by both Houses if it has been agreed to by them, either without amendment or with such amendments only as are agreed to by both Houses. Article 108 provides for a joint sitting of both Houses in certain cases for resolving differences, while article 109 prescribes a special procedure for money Bills.

**Formal scrutiny** - When a Bill is finally passed by both the Houses, the Secretariat of the House last in possession of the Bill (it will be the Lok Sabha in all cases of money Bills) sends a copy of the Bill as finally passed to the draftsman for formal scrutiny. At this stage, all that the draftsman may be able to do would be to point out errors relating to printing, spelling, punctuation, numbering of sections or clauses, cross references and marginal headings. Under a rule made by either House, the presiding officer has the power to correct patent errors and make such other changes in the Bill as are consequential on the amendments accepted by the House.

### **Recommendation of bill**

**Bills for territorial alteration** - Under article 3 of the Constitution, no Bill for the formation of new States or for the alteration of areas, boundaries or names of existing States can be

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introduced in either House of Parliament except on the recommendation of the President.

Money Bills - Under article 117(1), no Money Bill shall be introduced in the House of the People (Lok Sabha) except on the recommendation of the President. Article 110 says that a Bill shall be deemed as Money Bill if it contains provisions dealing with all or any of the following matters only:

- a) the imposition, abolition, remission, alteration or regulation of any tax;
- b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of the law with respect to any financial obligation undertaken or to be undertaken by the Government of India;
- c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into, or the withdrawal of moneys from, any such Fund;
- d) the appropriations of moneys out of the Consolidated Fund of India;
- e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- f) the receipt of money on account of the Consolidated Fund of India or the Public Account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State.

Bills affecting State revenue - Under article 274, no Bill which imposes or varies any tax or duty in which States are interested

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shall be introduced in either House of Parliament except on the recommendation of the President.

### **Special consideration in passing of a money bill**

**Introduction in House of People** - A Money Bill shall not be introduced in the council of states (ie it need to be introduced in the house of people). [Art 109(1)]

**Recommendation by Council of States** - After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of **fourteen days** from the date of receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States. [Art 109(2)]

**Acceptance with amendments** - If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People. [Art 109(3)]

**Acceptance without amendments** - If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States. [Art 109(4)]

**Deemed acceptance** - If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to

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have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People. [Art 109(5)]

President's assent

Assent by President - The Bill is then reprinted by the Parliament Secretariat in its final form and two copies thereof on thick paper authenticated by the presiding officer of the House concerned are sent to the Ministry of Law for submission to the President for his assent. A Bill becomes law as soon as it is assented to by the President. The Ministry of Law then gives it a number and the Act is published in the official Gazette as an Act of Parliament.

Withholding by President - The President may withhold the assent and return the bill other than a money bill for reconsideration; and if the bill is passed again by the Houses with or without amendment and is presented again to the President then it must be assented. [Art 111 Proviso]