

Money Bill and judicial review

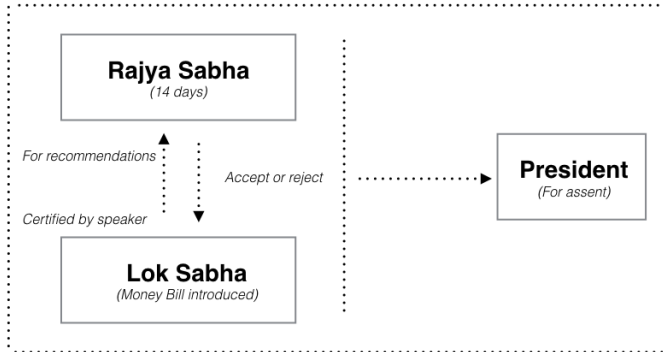
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Part I

What is money bill?

Basic understanding



Part II

Why study money bills?

What is common across these laws?

- SEBI-FMC merger
- FEMA Amendment
 - CG's jurisdiction on non-debt
 - Offence for aquisition of FX
- RBI's MPC - inflation targeting
- Aadhar

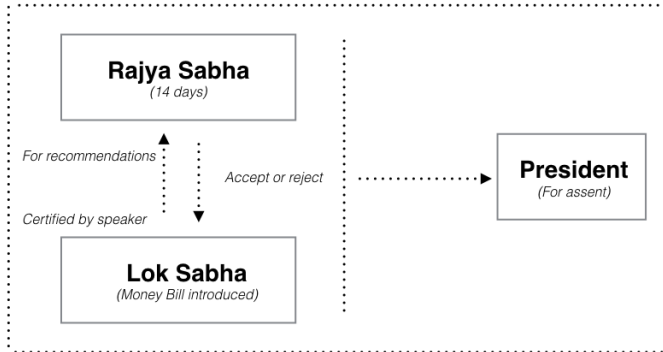
Other interesting developments

- Insolvency and Bankruptcy Code
- Datar in *Indian Express*
- Salve on CNBC TV
- GST: Jaitley-Chidambaram
- Jairam Ramesh v. Union of India, WP(C) 231/2016

Part III

So what is the research question?

Speaker's certificate



Article 110(4):

There shall be endorsed on every Money Bill **when it is transmitted** to the Council of States under article 109, and **when it is presented** to the President for assent under article 111, the **certificate of the Speaker** of the House of the People **signed by him** that it is a **Money Bill**.

Definition of money bill

- A money bill must contain all or any of the following:
 - 1 imposition, abolition, remission, alteration or regulation of any **tax**;
 - 2 regulation of the **borrowing of money** or the giving of any guarantee by the Government of India;
 - 3 **payment of moneys** into or the withdrawal of moneys from **CFI**;
 - 4 the **appropriation of moneys** out of the Consolidated Fund of India;
 - 5 declaring or increasing of any expenditure to be **expenditure charged on the CFI**;
 - 6 **receipt** of money on account of the CFI;
 - 7 **any incidental matter**.

What happens if the speaker's decision is wrong?

Article 110(3):

If any question arises whether a Bill is a Money Bill or not, the **decision** of the Speaker of the House of the People thereon shall be **final**.

- 1 **Can the speaker's certification of a bill as 'money bill' be questioned by SC?**

Part IV

Why did the concept of money bill originate?

- Who can impose tax on subjects? The King

Bit of history

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- 1849 SO - Lords given limited right to amend

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- S. 3: Certificate of speaker
*Any certificate of the Speaker of the House of Commons given under this Act **shall be conclusive for all purpose, and shall not be questioned in any court of law.***

Part V

Moving to Indian Constitution

Art 75(3) -> Article 110(3), Indian Constitution:

If any question arises whether a Bill is a Money Bill or not, the **decision** of the Speaker of the House of the People thereon shall be **final**.

Article 22(1), Irish Constitution:

The Chairman of D eail  Eireann shall certify any Bill which, in his opinion, is a Money Bill to be a Money Bill, and his certificate shall, **subject to the subsequent provisions of this section**, be **final and conclusive**.

Conclusions on Indian speaker's certificate

- **Final** for the Upper House
- It is not **conclusive for all purpose**
- Does not say **shall not be questioned in any court of law**

Part VI

Proceedings in Parliament outside judicial review

Article 122(1): *Courts not to inquire into proceedings of Parliament*

The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged **irregularity of procedure**.

BR Ambedkar, May 23, 1949:

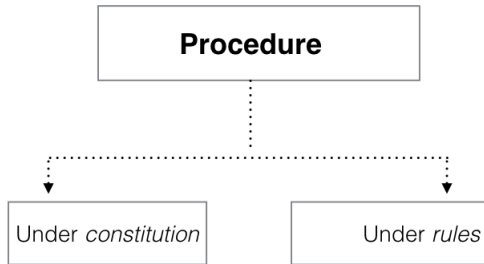
For the reason I have explained, **the only forum there the proceedings can be questioned in a legal manner and legal relief obtained either against** the President or **the Speaker** or any officer or Member, **being the Court**, it is unnecessary to specify the forum. Mr. Kamath will see that the marginal note makes it clear.

- Proceedings can be challenged except for **irregularity of procedure**

Part VII

What is 'procedure' under Art.
112(1)?

Procedures: Constitution v. Rules



Supreme Court's decisions

- Article 118-122 - Procedure generally
- 'Procedural irregularity' v. 'Procedural illegality'
 - 1 Special Reference No. 1 of 1964 (1964, 7JJ)
 - Keshav Singh - 1 lawyer - 2 judges
 - 2 Raja Ram Pal v. Hon'ble Speaker, Lok Sabha (2007)
 - Questions for money - Article 105

Part VIII

Supreme Court on money bills

Contrary jurisprudence

- Mangalore Ganesh Bidi Works (1962, 5JJ)
 - Indian Coinage (Amendment) Act, 1955
- Mohd. Saeed Siddiqui v. State of UP (2014, 3JJ)
 - UP Lokayukta (Amendment) Act, 2012
- Yogendra Kumar Jaiswal v. State of Bihar (2015, 2JJ)
 - Orissa Special Courts Act, 2006

Part IX

Foreign precedents

Overview

- 1 Expressly prohibits judicial review

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 - India, Pakistan

Part X

Conclusion

Take aways

- Money bill route misused

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- Speaker's certificate final for Upper House

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- Is judicial review desirable?
- Explore alternatives

Part XI

Thanks