

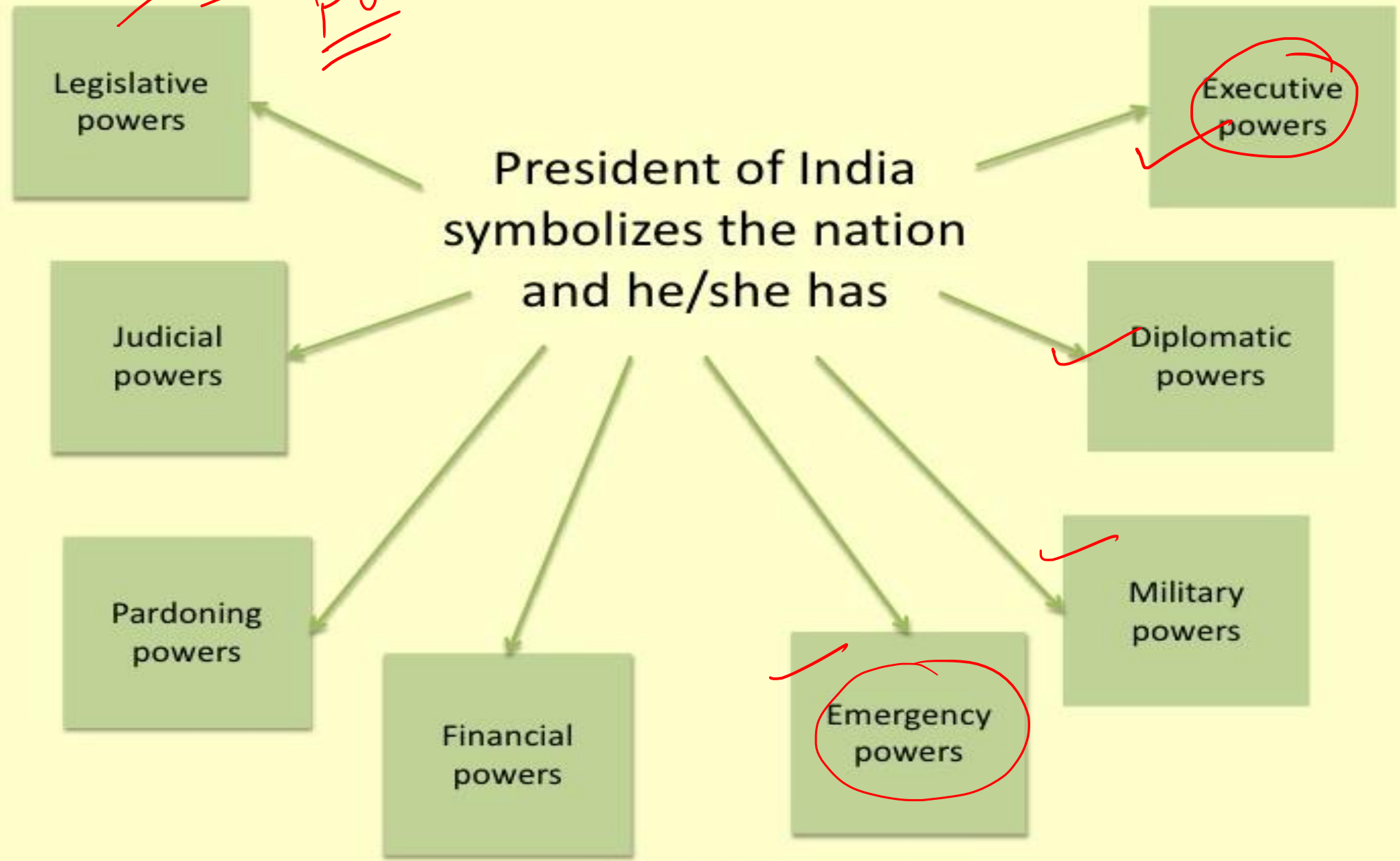
> 52nd Amd =) 1985



SAFALTA CLASS™

An Initiative by **अमरउजाला**

Veto
Power



Veto Power of the President

↳ meaning ⇒ prohibition

A bill passed by the Parliament can become an act only if it receives the assent of the President. When such a bill is presented to the President for his assent, he has three alternatives (under Article 111 of the Constitution):

1. He may give his assent to the bill, or
2. He may withhold his assent to the bill, or
3. He may return the bill (if it is not a Money bill) for reconsideration of the Parliament.

However, if the bill is passed again by the Parliament with or without amendments and again presented to the President, **the President must give his assent to the bill.**

The veto power enjoyed by the executive in modern states can be classified into the following four types:

1. Absolute veto, that is, withholding of assent to the bill passed by the legislature.
2. Qualified veto, which can be overridden by the legislature with a higher majority.

— India

(India ⊗)

3. Suspensive veto, which can be over ridden by the legislature with an ordinary majority.

4. Pocket veto, that is, taking no action on the bill passed by the legislature.

Of the above four, the President of India is vested with three—(absolute veto, suspensive veto and pocket veto.)

Ordinance-making Power of the President

Article 123 of the Constitution empowers the President to promulgate ordinances during the recess of Parliament. These ordinances have the same force and effect as an act of Parliament, but are in the nature of temporary laws.

(max Time) ⇒

6 months ⊕ 6 w.

In Cooper case, (1970), the Supreme Court held that the President's satisfaction can be questioned in a court on the ground of malafide.

S.C. Kashyap -
NIST

D C Wadhwa case (1987) ✓

Between 1967–1981 the Governor of Bihar promulgated 256 ordinances and all these were kept in force for periods ranging from one to fourteen years by repromulgation from time to time.

The court ruled that successive repromulgation of ordinances with the same text without any attempt to get the bills passed by the assembly would amount to violation of the Constitution and the ordinance so repromulgated is liable to be struck down.

POWER OF PARDON

Diff/B Pardoning power of
President and Governor



Pardoning Power of the President (Article-72)

↳ Apex Amnesty

1. Pardon It removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments and disqualifications.

2. Commutation It denotes the substitution of one form of punishment for a lighter form. For example, a death sentence may be commuted to rigorous imprisonment, which in turn may be commuted to a simple imprisonment.

3. Remission It implies reducing the period of sentence without changing its character. For example, a sentence of rigorous imprisonment for two years may be remitted to rigorous imprisonment for one year.

4. **Respite** It denotes awarding a lesser sentence in place of one originally awarded due to some special fact, such as the physical disability of a convict or the pregnancy of a woman offender.

→ Humani Tarika Ground

5. Reprieve It implies a stay of the execution of a sentence (especially that of death) for a temporary period. Its purpose is to enable the convict to have time to seek pardon or commutation from the President.

Under Article 161 of the Constitution, the governor of a state also possesses the pardoning power.

Hence, the governor can also grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offence against a state law.

But, the pardoning power of the governor differs from that of the President in following two respects:

1. The President can pardon sentences inflicted by court martial (military courts) while the governor cannot.

2. The President can pardon death sentence while governor cannot. Even if a state law prescribes death sentence, the power to grant pardon lies with the President and not the governor.



Prime min'

In the scheme of parliamentary system of government provided by the constitution, the **President is the nominal executive authority (de jure executive) and Prime Minister is the real executive authority (de facto executive).**

Nominal
Real

Appointment of the Prime Minister

Electioy

↳ No fix term

The Constitution does not contain any specific procedure for the selection and appointment of the Prime Minister. Article 75 says only that the Prime Minister shall be appointed by the president.

↳ Holds office

↳ pleasure by of
prez

In accordance with the conventions of the parliamentary system of government, the President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister.

But, when no party has a clear majority in the Lok Sabha, then the President may exercise his personal discretion in the selection and appointment of the Prime Minister.

In such a situation, the President usually appoints the leader of the largest party or coalition in the Lok Sabha as the Prime Minister and asks him to seek a vote of confidence in the House within a month.

This discretion was exercised by the President, for the first time in 1979, when Neelam Sanjiva Reddy (the then President) appointed Charan Singh (the coalition leader) as the Prime Minister after the fall of the Janata Party government headed by Morarji Desai.



However, if, on the death of an incumbent Prime Minister, the ruling party elects a new leader, the President has no choice but to appoint him as Prime Minister.

In 1997, the Supreme Court held that a person who is not a member of either House of Parliament can be appointed as Prime Minister for six months, within which, he should become a member of either House of Parliament; otherwise, he ceases to be the Prime Minister.

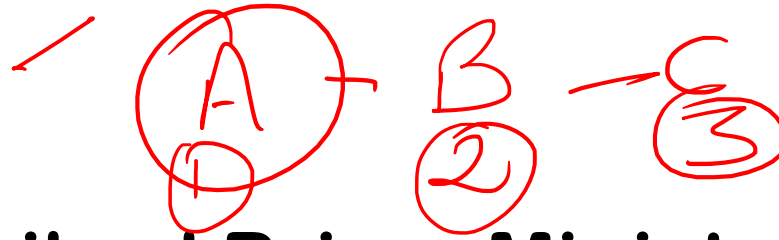
Constitutionally, the Prime Minister may be a member of any of the two Houses of parliament.

For example, three Prime Ministers, Indira Gandhi (1966), Deve Gowda (1996) and Manmohan Singh (2004), were members of the Rajya Sabha. In Britain, on the other hand, the Prime Minister should definitely be a member of the Lower House (House of Commons).

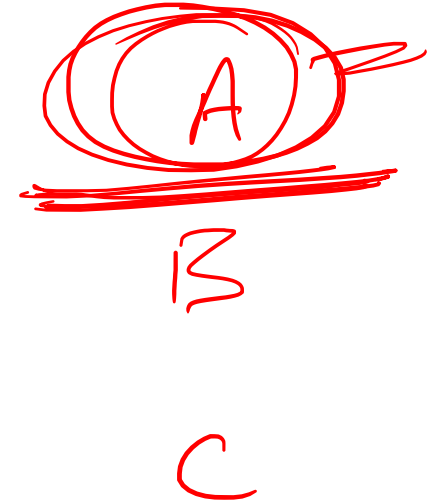
The term of the Prime Minister is not fixed and he holds office during the pleasure of the president.

However, this does not mean that the president can dismiss the Prime Minister at any time. So long as the Prime Minister enjoys the majority support in the Lok Sabha, he cannot be dismissed by the President.

However, if he loses the confidence of the Lok Sabha, he must resign or the President can dismiss him.



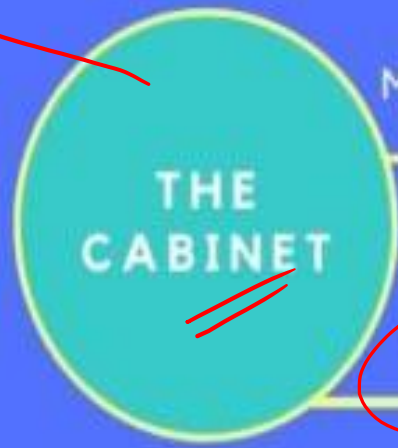
Lord Morely He described Prime Minister as 'primus inter pares' (first among equals) and 'key stone of the cabinet arch'. He said, "The head of the cabinet is 'primus inter pares', and occupied a position which so long as it lasts, is one of exceptional and peculiar authority".



<u>ARTICLE</u>	<u>PROVISIONS</u>
Art. 74	Council of Ministers to aid and advise the President
Art. 75	Other provisions as to ministers
Art. 77	Conduct of business of the Government of India
Art. 78	Duties of PM as respects the furnishing of information to the President etc.

Analyze the Difference Between the Cabinet and Council of Ministers

Art. 352



- Meetings Frequently Held
- Several Collective Functions
- Constitutional Body Since 1978

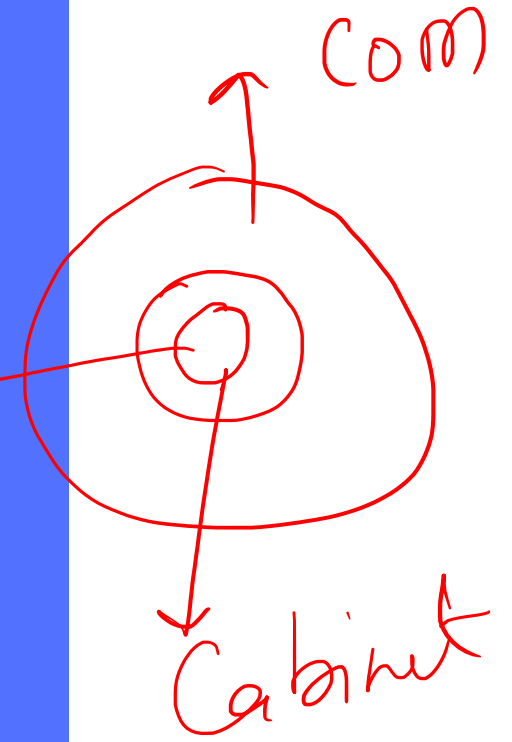
1978



- Meetings Rarely Held
- No Collective Functions
- Constitutional Body

most powerful

UN-obj



Collective Responsibility

The fundamental principle underlying the working of parliamentary system of government is the principle of collective responsibility. Article 75 clearly states that the council of ministers is collectively responsible to the Lok Sabha.

This means that all the ministers own joint responsibility to the Lok Sabha for all their acts of omission and commission. They work as a team and swim or sink together.