

Discuss the powers and functions of US Senate. Also explain senatorial Courtesy.

OR

Discuss the powers of Senate of USA. Also analyse.

ANS:-

Introduction:-

The Senate is considered the upper chamber of Congress. The fathers of the Constitution tried to make the senate the backbone of the American Federal system. It was devised as body representing the component states. The principle of equality of representation of the states through the senate helped the formation of the Union of the USA. Senate's constitutional powers include; proposing legislation, drafting or amending bills, filibuster (delay or block legislation via prolonged debate), oversight of the federal budget, and the executive branch by approving or rejecting presidential appointees for agencies. The Senate approves treaties with foreign nations that were negotiated by the Executive branch. The senate also has the power to convict an executive or judicial official with a two-third vote in an impeachment trial. Thus,

Senate holds important constitutional powers serving as the backbone of the federal system.

POWERS AND FUNCTIONS OF THE AMERICAN SENATE

Legislative Powers:-

The Senate enjoys equal and co-ordinate legislative authority with the House of Representatives. Ordinary bills may be initiated in either House but the money bills can only be originated in the Lower House. As regards ordinary legislation, the legislative history of the Congress shows that all important bills are originated in the Senate and then referred to the House. A bill becomes a law when assented to by the President after having been passed in both the houses. In case, there is disagreement between the two houses, a Conference Committee consisting of 3 to 9 members from each house is constituted to resolve the deadlock. The legislative history of the US shows that it is the Senate, which wins the point ultimately. All these facts prove that the Senate unlike other upper Houses, enjoy predominant position over the Lower House.

Executive Powers

1. Approval of Appointment:-

The Constitution provides that the president "shall nominate, and by and with the advice and consent of the Supreme Court, and all other officers of the United States (Article 2, Section 2)." The senate has always jealously guarded its power to review and approve or reject presidential appointees to executive and judicial branch posts.

SENATORIAL COURTESY

The approval of the senate is necessary for all federal appointments made by the President. In this sphere "Senatorial Courtesy" plays very important role.

In Definitions.net. STANDS4 LLC,

senatorial courtesy is an unwritten political custom in the United States whereby the president consults the senior U.S. Senators of his political party of a given state before nominating any person to a federal vacancy within that senator's state. It is strictly observed in connection with the appointment

federal district court judges, U.S. attorneys, and federal marshals."

In the United States Senate, senatorial courtesy is a practice where senators will not confirm nominees to official positions without the approval of the senators from the home state of the nominee. This practice is not official or codified, but it is generally accepted in Senate practice and has been since 1789.

Significance of Senatorial Courtesy:

Making political appointments is a delicate business, especially for positions such as seats on the Supreme Court, because they are held for life unless grave misconduct occurs. These positions are significant plums for the president, and care is taken to hand them to the most suitable person. The confirmation process through senatorial courtesy provides the Senate with an opportunity to weigh in on proposed nominations and to oppose ^{nominees} if the Senate feels they are not appropriate. Such consultation can help the president avoid a politically costly and embarrassing rejection of the nominee.

Therefore, United States Attorney General Robert F. Kennedy described the practice,
 "Basically, it's senatorial appointment with the advice and consent of the president."

Application of Senatorial Courtesy On the appointment of Supreme Court justices:-

Senatorial Courtesy does not apply in the appointment of Supreme Court justices, although it did during the administration of Grover Cleveland, when political opposition of New York senator David B. Hill prevented Cleveland from gaining confirmation for a replacement to a seat traditionally held by a New Yorker. Cleveland eventually bypassed Hill by disregarding this courtesy and leveraging another Senate custom.

Criticisms:-

Some people have criticized senatorial courtesy, arguing that

It allows senators to wield tremendous power. A nominee may be controversial, but very fit for the position, and can be denied as a result of Senatorial Courtesy. This has the tendency to consolidate power and can result in attempts to nominate people who will not be attractive while passing over people who might be better fits for a position. While others consider Senatorial Courtesy as an essential power for senate. As a senate colleague will have the best first-hand knowledge of the personal character and qualifications of nominees from his or her own state. Thus, Senatorial Courtesy has its own dimension, but it guarantees smooth running of governance under the collaboration of president and of senate on appointments.

ii. Endorsement of Treaties/Control over Foreign Policies:-

The second executive function of the senate is in connection with foreign policy. Constitution of USA says that all treaties made by the President will have to be endorsed by

(by a two-third vote)

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by the senate. By its rejection of treaties negotiated by the President with other countries, the senate may alienate foreign governments.

Example:

In spite of the strong advocacy of President Woodrow Wilson, the USA could not become a member of the League of Nations because the senate was opposed to it.

iii. Declaration of War:-

The Constitution grants Congress the sole power to declare war. Congress has declared war on 11 occasions, including its first declaration of war with Great Britain in 1812. Congress approved its last formal declaration of war during World War II. Since that time, it has agreed to resolutions authorizing the use of military force and continues to shape the U.S. military policy through appropriations and oversight.

iv. Investigations-

Congress has conducted investigations of malfeasance in the executive branch and elsewhere in American society since 1792. The need for congressional investigation remains a critical ingredient for restraining

government and educating the public.

Judicial Powers:-

Impeachment:-

In case of impeachment, the senate sits as a Chief Court of justice headed by the Chief Justice of the Supreme Court. Impeachments are framed by the House of Representatives and trial takes place in the senate. The President, vice-president and all civil officers are can be impeached before the senate. A two-thirds majority of the senate is required for conviction.

Miscellaneous Powers :-

i- Electoral Power:-

if in the election of the vice-president of the USA, no candidate secures a clear majority of electoral vote, the senators voting as individual elect one from the first two candidates.

ii- Constituent Power:-

A constitutional amendment may be proposed by a two-thirds vote of each house of Congress, or the legislatures of two-thirds of the states may call for a convention to propose constitutional

amendments. To become part of the constitution, an amendment that has been proposed must be ratified by the legislatures or special conventions in three-fourth of the states.

iii. Censure:-

"Article 1, section 5, of the U.S Constitution provides that" Each House may determine the Rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member"

Censure is a form of discipline used by the senate against its members. (sometimes referred to as condemnation or denouncement). A formal statement of disapproval, a censure does not remove a senator from office. Since 1789, the senate has censured nine of its members.

iv. Contested Senate Elections:-

The United States Constitution gives each house of Congress the power to be the judge of the "elections, returns, and qualification of its own members." (Article 1, Section 5). Since 1789 the senate has carefully guarded this prerogative and has developed its own procedure of

for judging the qualification of its members and setting contested elections.

v. Filibusters and Cloture:-

The senate has a long history of using the filibuster - a term dating back to the 1850s in the United States - to delay debate or block legislation. Senate adopted Rule 22 that allowed the senate to end a debate with a two-thirds majority vote - a procedure known as "Cloture". In 1975 the senate reduced the number of votes required for cloture from two-thirds (67) to three-fifths (60) of the 100-member senate.

Conclusion:-

Senate through its executive, legislative, judicial and special powers serves as the core regulating body of U.S. government. These powers make U.S. Senate the most powerful senate in the world.