# Issue with Finance act 2017

## What is the issue?

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**Recent approach of the government in passing the Finance Bill, 2017, without Rajya Sabha scrutiny is legally wrong.**

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## Why is the government wrong?

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- The current government has piloted the Finance Act, 2017 through Parliament to get substantial legal provisions passed without the scrutiny of the Rajya Sabha.
- Many appellate tribunals that hear appeals against orders by regulatory authorities which were initially passed by both the houses have been merged with other tribunals without the approval of Rajya Sabha.
- The Constitution has an inbuilt check and balance in the office of the Speaker of the Lok Sabha.
- She/he has the last word on whether or not a proposed law is a Money Bill, that is, a law that deals with matters of finance and tax, as set out in the Constitution.
- If the parliament thinks that the speaker of the Lok Sabha is wrong, nothing can be done except a constitutional amendment to change the powers of the speaker.
- Constitutional courts may be visited with challenges to the abuse, but nothing much can be expected.
- It is equally true that courts have not always steered clear of every wrong that is not justiciable.
- Either entire legislation (for example, environmental charge for entry of

vehicles into Delhi) including de facto contents of the Constitution (for example, the judges' collegium for judicial appointments) have been created in the past by judge-made law.
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- In a challenge to the replacement of governors of states as political decisions, courts have ruled that no decision of the government, including a decision to replace a governor can be arbitrary, yet ruling that the decision cannot be interfered with.
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## What is the previous precedence of such acts?

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**This act of simply circumventing the Rajya Sabha has been resorted to in the past.**

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**The Foreign Exchange Management Act, 1999, had been passed by both Houses of Parliament as a non-criminal law to replace the dreaded criminal law contained in the Foreign Exchange Regulation Act, 1974.**

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**That was not a Money Bill.**

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**Two years ago, provisions criminalising exchange controls were brought into FEMA through a Money Bill., thus no consent of the Rajya Sabha was needed.**

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**There are some laudatory amendments like extending the retirement age of the presiding officer to 70 years.**

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## Source: Business Standard

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