

## Polity Class 08

26th May, 2023 at 1:00 PM

### A BRIEF REVISION OF THE PREVIOUS CLASS (1:13 PM):

### VARIOUS TYPES OF MAJORITIES (1:16 PM):

- **Quorum:** Basic minimum attendance required on a particular day for the house to function.
- **Simple majority:**
  - It refers to the majority of members present and voting and is also referred as **functional majority** as it is used the most in the functioning of any legislature.
  - It is required for a number of purposes including:
    - Passing **ordinary bills**.
    - Declaring a **financial emergency**.
    - Passing **confidence/no-confidence motion**.
    - Election of the **Speaker** and **Deputy Speaker**.
  - **Note:** Unless specifically mentioned, the resolution will mean that it has to be passed with a simple majority.
- **Effective Majority:**
  - It refers to the majority of the then membership of the house.
  - The effective majority essentially is more than 50% of the present membership of the house which is obtained by subtracting vacancies from the total membership of the house.
  - It is required for the following purposes:
    - Removal of **Vice President**.
    - Removal of **Deputy Chairmen of Rajya Sabha**
    - Removal of the **Speaker** and **Deputy Speaker** of **Loksabha**
    - Removal of **Speaker, Deputy Speaker** of **Legislative Assemblies**.
- **Absolute Majority:**
  - It refers to the majority of the total membership of the house.
  - In the normal business of Parliament/State legislature, it is not of much use but is required after the general elections/assembly elections for the formation of govt at the center or states.

- **Special Majority (1:53 pm):**
- It requires the majority of the total membership of the house (i.e. absolute majority) and by a majority of not less than 2/3rd members present and voting.
- Apart from **constitutional amendments**, it is utilized for the following purposes:
- Removal of **judges of SC and HC**.
- Removal of the **Chief Election Commissioner** and **CAG**.
- Approval of **National Emergency**.
- Resolution by the state legislature for the **abolition** and **creation of legislative councils** in the state.
- **Majority for removal of the President of India:**
- For the removal of the President of India, both houses need to pass a resolution by a majority of at least 2/3rd of the total membership of the house.

#### **PROCESS OF AMENDMENT OF INDIAN CONSTITUTION (2:21 PM):**

- **Art 368** mentions the powers of the Parliament and the procedure for the amendment of the Constitution.
- Amendment under Art 368 may mean **addition, variation, and removal**.
- Procedure for the amendment is mentioned in Art 368(2).
- According to Art 368(2), a Constitutional amendment bill may be introduced in either house of the Parliament and must be passed by both houses with a special majority.
- Thereafter, the President compulsorily has to give his assent to the bill after which it becomes an act.
- The **mandatory assent** of the **President** is sanctioned by **the 24th CAA 1971**.
- **Safeguards of federalism to prevent the misuse of Art 368:**
- According to **Proviso to Art 368 (2)**, a bill amending provisions mentioned in **sub-clause a to e**, shall get the approval of at least half of the state legislatures in India.
- Without such approval, a bill must not be presented to the President for his approval.

- **Approval of the bill by at least half of the state legislatures is required in the following provisions [subclause a to e under art 368(2)] (3:22 pm):**
- Distribution of **Legislative powers** of the state (Chapter I, Part XI, Schedule VII) and **Executive powers** of the state (Art 73 - the extent of executive power of Union, 162 - the extent of executive power of the state).
- Provisions of **GST Council** (Art 279A).
- Provisions related to the Judiciary (**SCs, and HCs**) (Chapter IV, Part V -SC; Chapter V Part VI-HC; Art 241- High Court of UTs).
- **Provisions to the Elections** of the **President** of India (Art 54, Art. 55 ).
- Provisions of **Art 368** itself.
- **Representation of states** in the Parliament (Schedule IV - Representation of states in the Council of States, Art 81 - Principles on the basis of which seats are allocated in the House of People).
- **Procedure for the amendment of the American Constitution (3:44 pm):**
- The American Constitution under **Art V** provides the procedure for the amendment of the Constitution.
- **Two methods** may be used for this process:
- i) If the proposal is made by **2/3rd** of both houses of **Congress** the amendment must be ratified by **3/4th** of the **state legislatures**.
- ii) In the other process, if **2/3rd** of states ask Congress to organize the convention of the state, and if **3/4th** of the states at the convention passed the amendment.
- American constitution has been amended only **27 times** to date as the procedure for its amendment is much tougher when compared to the Indian constitution.

## **PART I OF THE CONSTITUTION/UNION AND ITS TERRITORY (ART 1-4) (3:57 PM):**

- **ARTICLE 1:**
- This article has 3 clauses.
- **Article 1 (1):** It **provides the name** by which India should be called.
- According to this provision, it may be referred to as **India** or **Bharat**.
- Further, it also highlights the mode of formation of the Indian Union.
- The constitution makers deliberately used the term Union of States in comparison to a federation of states used in the USA.
- A federation implies an agreement leading to the formation of the federation in which the states are free to move away from the federation but in the Indian

context, the constitution makers wanted to imply that the Union came into existence first and the states owe their existence to the Union.

- The Indian citizens vested **legal sovereignty** in the state and the **political sovereignty** was shared between the center and the states.
- As per **Dr. Ambedkar**, using the term federation would not have been conducive to the integrity of the nation as some states may have tried to move away considering secessionist tendencies prevalent at that time.
- **Art 1 (2):** Provides the details on where the names and the extent of territories of the states and UTs have been mentioned.
- **Art 1 (3):** It defines the term territory of India, which includes the territories of states, UTs, and acquired territories.

**TOPIC FOR THE NEXT CLASS:** Continuation of Part I.