

## **PARLIAMENT**

- Articles 79 to 122 in Part V of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.

### **Organisation of Parliament**

- The Parliament of India consists of three parts viz, the President, the Council of States and the House of the People.
- In 1954, the Hindi names 'Rajya Sabha' and 'Lok Sabha' were adopted by the Council of States and the House of People respectively.
- The Rajya Sabha is the Upper House (Second Chamber or House of Elders) and the Lok Sabha is the Lower House (First Chamber or Popular House).
- The RS represents the states and union territories of the Indian Union, while the LS represents the people of India as a whole.
- The President of India is not a member of either House of Parliament and does not sit in the Parliament to attend its meetings, he is an integral part of the Parliament. This is because a bill passed by both the Houses of Parliament cannot become law without the President's assent.
- The president summons and pro- rogues both the Houses, dissolves the Lok Sabha, addresses both the Houses, issues ordinances when they are not in session, and so on.

### **Composition of the Two Houses**

#### **Composition of Rajya Sabha**

- The maximum strength fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president.
- The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.

#### **1. Representation of States**

- The representatives of states elected by the elected members of state legislative assemblies.
- held in accordance with the system of proportional representation by means of the single transferable vote.
- The seats are allotted to the states on the basis of population.

#### **2. Representation of Union Territories**

- The representatives of each union territory are indirectly elected by members of an electoral college specially constituted for the purpose.
- election is also held in accordance with the system of proportional representation by means of the single transferable vote.
- Out of the seven union territories, only two (Delhi and Puducherry) have representation in Rajya Sabha.
- The populations of other five union territories are too small to have any representative in the Rajya Sabha.

#### **3. Nominated Members**

- The president nominates 12 members to the Rajya Sabha from people who have special knowledge or practical experience in art, literature, science and social service.

### **Composition of Lok Sabha**

- The maximum strength fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members are to be nominated by the president from the Anglo-Indian community.

### **1. Representation of States**

- The representatives of states are directly elected by the people from the territorial constituencies in the states.
- based on the principle of universal adult franchise.
- Every Indian citizen who is above 18 years of age and who is not disqualified under the provisions of the Constitution or any law is eligible to vote at such election.
- The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

### **2. Representation of Union Territories**

- The Constitution has empowered the Parliament to prescribe the manner of choosing the representatives of the union territories in the Lok Sabha.
- Accordingly, the Parliament has enacted the Union Territories (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the union territories are also chosen by direct election.

### **3. Nominated Members**

- The president can nominate two members from the Anglo-Indian community if the community is not adequately represented in the Lok Sabha.
- Originally, this provision was to operate till 1960 but has been extended till 2020 by the 95th Amendment Act, 2009.

### **System of Elections to Lok Sabha**

The various aspects related to the system of elections to the Lok Sabha are as follows:

#### **Territorial Constituencies**

In this respect, the Constitution makes the following two provisions:

1. Each state is allotted a number of seats in the Lok Sabha in such a manner that the ratio between that number and its population is the same for all states. This provision does not apply to a state having a population of less than six millions.
2. Each state is divided into territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it is the same throughout the state.

### **Duration of Two Houses**

#### **Duration of Rajya Sabha**

- The Rajya Sabha (first constituted in 1952) is a continuing chamber, that is, it is a permanent body and not subject to dissolution.
- one-third of its members retire every second year.
- Their seats are filled up by fresh elections and presidential nominations at the beginning of every third year.
- The retiring members are eligible for re-election and renomination any number of times.
- the Parliament in the Representation of the People Act (1951) provided that the term of office of a member of the Rajya Sabha shall be six years.

### **Duration of Lok Sabha**

- The Lok Sabha is not a continuing chamber.
- Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves.
- the President is authorised to dissolve the Lok Sabha at any time even before the completion of five years and this cannot be challenged in a court of law.
- the term of the Lok Sabha can be extended during the period of national emergency by a law of Parliament for one year at a time for any length of time.
- this extension cannot continue beyond a period of six months after the emergency has ceased to operate.

### **Membership of Parliament**

#### **Qualifications**

The Constitution lays down the following qualifications for a person to be chosen a member of the Parliament:

1. He must be a citizen of India.
2. He must make and subscribe to an oath or affirmation before the person authorised by the election commission for this purpose. In his oath or affirmation, he swears
  - (a) To bear true faith and allegiance to the Constitution of India
  - (b) To uphold the sovereignty and integrity of India
3. He must be **not less than 30 years of age in the case of the Rajya Sabha** and **not less than 25 years of age in the case of the Lok Sabha.**
4. He must possess other qualifications prescribed by Parliament.

The Parliament has laid down the following additional qualifications in the Representation of People Act (1951).

1. He must be registered as an elector for a parliamentary constituency.
2. He must be a member of a scheduled caste or scheduled tribe in any state or union territory, if he wants to contest a seat reserved for them. However, a member of scheduled castes or scheduled tribes can also contest a seat not reserved for them.

#### **Disqualifications**

Under the Constitution, **a person shall be disqualified for being elected as a member of Parliament:**

1. **if he holds any office of profit under the Union or state government (except that of a minister or any other office exempted by Parliament).**
2. unsound mind and stands so declared by a court, undischarged insolvent, not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and disqualified under any law made by Parliament.

The Parliament has laid down the following additional disqualifications in the Representation of People Act (1951):

1. He must not have been found guilty of certain election offences or corrupt practices in the elections.
2. He must not have been convicted for any offence resulting in imprisonment for two or more years. But, the detention of a person under a preventive detention law is not a disqualification.
3. He must not have failed to lodge an account of his election expenses within the time.
4. He must not have any interest in government contracts, works or services.
5. He must not be a director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share.
6. He must not have been dismissed from government service for corruption or disloyalty to the State.

7. He must not have been convicted for promoting enmity between different groups or for the offence of bribery.
  8. He must not have been punished for preaching and practising social crimes such as untouchability, dowry and sati.
- ✓ On the question whether a member is subject to any of the above disqualifications, the president's decision is final. However, he should obtain the opinion of the election commission and act accordingly.

**Disqualification on Ground of Defection** The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule. A member incurs disqualification under the defection law:

1. if he voluntary gives up the membership of the political party on whose ticket he is elected to the House;
  2. if he votes or abstains from voting in the House contrary to any direction given by his political party;
  3. if any independently elected member joins any political party; and
  4. if any nominated member joins any political party after the expiry of six months.
- ✓ The question of disqualification under the Tenth Schedule is decided by the Chairman in the case of Rajya Sabha and Speaker in the case of Lok Sabha (and not by the president of India).
- ✓ In 1992, the Supreme Court ruled that the decision of the Chairman/Speaker in this regard is subject to judicial review.

### **Vacating of Seats**

In the following cases, a member of Parliament vacates his seat.

**1. Double Membership** A person cannot be a member of both Houses of Parliament at the same time. Thus, the Representation of People Act (1951) provides for the following:

- (a) If a person is elected to both the Houses of Parliament, he must intimate within 10 days in which House he desires to serve. In default of such intimation, his seat in the Rajya Sabha becomes vacant.
- (b) If a sitting member of one House is also elected to the other House, his seat in the first House becomes vacant.
- (c) If a person is elected to two seats in a House, he should exercise his option for one. Otherwise, both seats become vacant.

Similarly, a person cannot be a member of both the Parliament and the state legislature at the same time. If a person is so elected, his seat in Parliament becomes vacant if he does not resign his seat in the state legislature within 14 days.

**2. Resignation:** A member may resign his seat by writing to the Chairman of Rajya Sabha or Speaker of Lok Sabha, as the case may be. The seat falls vacant when the resignation is accepted. However, the Chairman/Speaker may not accept the resignation if he is satisfied that it is not voluntary or genuine.

**3. Absence:** A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission. In computing the period of sixty days, no account shall be taken of any period during which the House is prorogued or adjourned for more than four consecutive days.

### **Oath or Affirmation**

- ✓ Quite Similar

- ✓ Each House of Parliament has its own presiding officer. There is a Speaker and a Deputy Speaker for the Lok Sabha and a Chairman and a Deputy Chairman for the Rajya Sabha. A panel of chairpersons for the Lok Sabha and a panel of vice-chairpersons for the Rajya Sabha is also appointed.

## **Speaker of Lok Sabha**

### **Election and Tenure**

- ✓ The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting).
- ✓ Whenever the office of the Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy.
- ✓ The date of election of the Speaker is fixed by the President.

Usually, the Speaker remains in office during the life of the Lok Sabha. However, he has to vacate his office earlier in any of the following three cases:

1. if he ceases to be a member of the Lok Sabha;
  2. if he resigns by writing to the Deputy Speaker; and
  3. if he is removed by a resolution passed by a majority of all the members of the Lok Sabha. Such a resolution can be moved only after giving 14 days' advance notice.
- ✓ When a resolution for the removal of the Speaker is under consideration of the House, he cannot preside at the sitting of the House, though he may be present.
  - ✓ However, he can speak and take part in the proceedings of the House at such a time and vote in the first instance, though not in the case of an equality of votes.
  - ✓ It should be noted here that, whenever the Lok Sabha is dissolved, the Speaker does not vacate his office and continues till the newly-elected Lok Sabha meets.

### **Role, Powers and Functions**

- ✓ The Speaker is the head of the Lok Sabha, and its representative.
  - ✓ He is the guardian of powers and privileges of the members, the House as a whole and its committees.
  - ✓ He is the **principal spokesman of the House**, and his decision in all Parliamentary matters is final.
  - ✓ He is thus much more than merely the presiding officer of the Lok Sabha.
  - ✓ In these capacities, he is vested with vast, varied and vital responsibilities and enjoys great honour, high dignity and supreme authority within the House.
  - ✓ The Speaker of the Lok Sabha derives his powers and duties from three sources, that is, **the Constitution of India, the Rules of Procedure and Conduct of Business of Lok Sabha, and Parliamentary Conventions (residuary powers that are unwritten or unspecified in the Rules)**. Altogether, he has the following powers and duties:
1. maintains order and decorum in the House for conducting its business and regulating its proceedings.
  2. the final interpreter of the provisions of (a) the Constitution of India, (b) the Rules of Procedure and Conduct of Business of Lok Sabha, and (c) the parliamentary precedents, within the House.
  3. adjourns the House or suspends the meeting in absence of a quorum. The **quorum to constitute a meeting of the House is one-tenth of the total strength of the House**.
  4. does not vote in the first instance. But he can exercise a casting vote in the case of a tie. In other words, only when the House is divided equally on any question, the Speaker is entitled to vote. Such vote is called **casting vote, and its purpose is to resolve a deadlock**.
  5. presides over a joint sitting of the two Houses of Parliament. Such a sitting is summoned by the President to settle a deadlock between the two Houses on abill.
  6. allow a **'secret' sitting of the House at the request of the Leader of the House. When the House sits in secret, no stranger can be present in the chamber, lobby or galleries except with the permission of the**

**Speaker.**

7. decides whether a bill is a money bill or not and his decision on this question is final. When a money bill is transmitted to the Rajya Sabha for recommendation and presented to the President for assent, the Speaker endorses on the bill his certificate that it is a money bill.
8. decides the questions of disqualification of a member of the Lok Sabha, arising on the ground of defection under the provisions of the Tenth Schedule. In 1992, the Supreme Court ruled that the decision of the Speaker in this regard is subject to judicial review.
9. acts as the *ex-officio* chairman of the Indian Parliamentary Group of the Inter-Parliamentary Union. He also acts as the *ex-officio* chairman of the conference of presiding officers of legislative bodies in the country.
10. appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their functioning.
11. He is the chairman of the Business Advisory Committee, the Rules Committee and the General Purpose Committee.

**Independence and Impartiality**

The following provisions ensure the independence and impartiality of the office of the Speaker:

1. can be removed only by a resolution passed by the Lok Sabha by an absolute majority (ie, a majority of the total members of the House) and not by an ordinary majority (ie, a majority of the members present and voting in the House).
2. This motion of removal can be considered and discussed only when it has the support of at least 50 members.
3. He is given a very high position in the order of precedence. He is placed at seventh rank, along with the Chief Justice of India. This means, he has a higher rank than all cabinet ministers, except the Prime Minister or Deputy Prime Minister.

**Deputy Speaker of Lok Sabha**

- ✓ the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members.
- ✓ elected after the election of the Speaker has taken place. The date of election of the Deputy Speaker is fixed by the Speaker.
- ✓ Whenever the office of the Deputy Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy.

Like the Speaker, the Deputy Speaker remains in office usually during the life of the Lok Sabha. However, he may vacate his office earlier in any of the following three cases:

1. if he ceases to be a member of the Lok Sabha;
  2. if he resigns by writing to the Speaker; and
  3. if he is removed by a resolution passed by a majority of all the members of the Lok Sabha. Such a resolution can be moved only after giving 14 days' advance notice.
- ✓ acts as the Speaker when the latter is absent from the sitting of the House. In both the cases, he assumes all the powers of the Speaker.
  - ✓ also presides over the joint sitting of both the Houses of Parliament, in case the Speaker is absent from such a sitting.
  - ✓ The Deputy Speaker has one special privilege, that is, whenever he is appointed as a member of a parliamentary committee, he automatically becomes its chairman.
  - ✓ When the Speaker presides over the House, the Deputy Speaker is like any other ordinary member of the House. He can speak in the House, participate in its proceedings and vote on any question before the House.

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- ✓ Upto the 10th Lok Sabha, both the Speaker and the Deputy Speaker were usually from the ruling party. Since the 11th Lok Sabha, there has been a consensus that the Speaker comes from the ruling party (or ruling alliance) and the post of Deputy Speaker goes to the main opposition party.
- ✓ The Speaker and the Deputy Speaker, while assuming their offices, do not make and subscribe any separate oath or affirmation.
- ✓ The institutions of Speaker and Deputy Speaker originated in India in 1921 under the provisions of the Government of India Act of 1919 (Montague–Chelmsford Reforms). At that time, the Speaker and the Deputy Speaker were called the President and Deputy President respectively and the same nomenclature continued till 1947.

### **Panel of Chairpersons of Lok Sabha**

- ✓ Under the Rules of Lok Sabha, the Speaker nominates from amongst the members a panel of not more than ten chairpersons.
- ✓ Any of them can preside over the House in the absence of the Speaker or the Deputy Speaker. He has the same powers as the Speaker when so presiding. He holds office until a new panel of chairpersons is nominated.
- ✓ When a member of the panel of chairpersons is also not present, any other person as determined by House acts as the Speaker.
- ✓ It must be emphasized here that a member of the panel of chairpersons cannot preside over the House, when the office of the Speaker or the Deputy Speaker is vacant.
- ✓ During such time, the Speaker's duties are to be performed by such member of the House as the President may appoint for the purpose. The elections are held, as soon as possible, to fill the vacant posts.

### **Speaker Pro Tem**

- ✓ As provided by the Constitution, the Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly- elected Lok Sabha.
- ✓ the President appoints a member of the Lok Sabha as the Speaker Pro Tem .
- ✓ Usually, the senior most member is selected for this.
- ✓ The President himself administers oath to the Speaker Pro Tem.
- ✓ the office of the Speaker Pro Tem is a temporary office, existing for a few days.

### **Chairman of Rajya Sabha**

- ✓ The presiding officer of the Rajya Sabha.
- ✓ The vice-president of India is the *ex-officio* Chairman of the Rajya Sabha.
- ✓ During any period when the Vice-President acts as President or discharges the functions of the President, he does not perform the duties of the office of the Chairman of Rajya Sabha.
- ✓ The Chairman of the Rajya Sabha can be removed from his office only if he is removed from the office of the Vice-President.
- ✓ As a presiding officer, the powers and functions of the Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha. However, the Speaker has two special powers which are not enjoyed by the Chairman:
  1. The Speaker decides whether a bill is a money bill or not and his decision on this question is final.
  2. The Speaker presides over a joint sitting of two Houses of Parliament.
- ✓ Unlike the Speaker (who is a member of the House), the Chairman is not a member of the House. But like the Speaker, the Chairman also cannot vote in the first instance. He too can cast a vote in the case of an equality of votes.
- ✓ The Vice-President cannot preside over a sitting of the Rajya Sabha as its Chairman when a resolution for his removal is under consideration.



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- ✓ he can be present and speak in the House and can take part in its proceedings, without voting, even at such a time (while the Speaker can vote in the first instance when a resolution for his removal is under consideration of the Lok Sabha).

### **Deputy Chairman of Rajya Sabha**

- ✓ The Deputy Chairman is elected by the Rajya Sabha itself from amongst its members. Whenever the office of the Deputy Chairman falls vacant, the Rajya Sabha elects another member to fill the vacancy.

The Deputy Chairman vacates his office in any of the following three cases:

1. if he ceases to be a member of the Rajya Sabha;
  2. if he resigns by writing to the Chairman; and
  3. if he is removed by a resolution passed by a majority of all the members of the Rajya Sabha. Such a resolution can be moved only after giving 14 days' advance notice.
- ✓ The Deputy Chairman performs the duties of the Chairman's office when it is vacant or when the Vice-President acts as President or discharges the functions of the President.
  - ✓ He also acts as the Chairman when the latter is absent from the sitting of the House. In both the cases, he has all the powers of the Chairman.
  - ✓ He is directly responsible to the Rajya Sabha.

### **Panel of Vice-Chairpersons of Rajya Sabha**

- ✓ Under the Rules of Rajya Sabha, the Chairman nominates from amongst the members a panel of vice-chairpersons.
- ✓ Any one of them can preside over the House in the absence of the Chairman or the Deputy Chairman. He has the same powers as the Chairman when so presiding.
- ✓ He holds office until a new panel of vice-chairpersons is nominated.

## **Leaders in Parliament**

### **Leader of the House**

- ✓ Under the Rules of Lok Sabha, the 'Leader of the House' means the prime minister, if he is a member of the Lok Sabha, or a minister who is a member of the Lok Sabha and is nominated by the prime minister to function as the Leader of the House.
- ✓ There is also a 'Leader of the House' in the Rajya Sabha. He is a minister and a member of the Rajya Sabha and is nominated by the prime minister to function as such.

### **Leader of the Opposition**

- ✓ In each House of Parliament, there is the 'Leader of the Opposition'.
- ✓ The leader of the largest Opposition party having not less than one-tenth seats of the total strength of the House is recognised as the leader of the Opposition in that House.
- ✓ In a parliamentary system of government, the leader of the opposition has a significant role to play. His main functions are to provide a constructive criticism of the policies of the government and to provide an alternative government. Therefore, the leader of Opposition in the Lok Sabha and the Rajya Sabha were accorded statutory recognition in 1977.
- ✓ They are also entitled to the salary, allowances and other facilities equivalent to that of a cabinet minister. It was in 1969 that an official leader of the opposition was recognised for the first time. The same functionary in USA is known as the 'minority leader'.



### Whip

- ✓ the offices of the leader of the House and the leader of the Opposition are not mentioned in the Constitution of India, they are mentioned in the Rules of the House and Parliamentary Statute respectively.
- ✓ The office of 'whip', on the other hand, is mentioned neither in the Constitution of India nor in the Rules of the House nor in a Parliamentary Statute.
- ✓ It is based on the conventions of the parliamentary government.
- ✓ Every political party, whether ruling or Opposition has its own whip in the Parliament.
- ✓ He is appointed by the political party to serve as an assistant floor leader.
- ✓ He is charged with the responsibility of ensuring the attendance of his party members in large numbers and securing their support in favour of or against a particular issue.
- ✓ He regulates and monitors their behaviour in the Parliament.
- ✓ The members are supposed to follow the directives given by the whip. Otherwise, disciplinary action can be taken.

### Sessions of Parliament

#### Summoning

- ✓ The president from time to time summons each House of Parliament to meet.
- 1. The maximum gap between two sessions of Parliament cannot be more than six months.
- ✓ the Budget Session (February to May);
- ✓ the Monsoon Session (July to September); and
- ✓ the Winter Session (November to December).

	<i>Adjournment</i>		<i>Prorogation</i>
1.	It only terminates a sitting and not a session of the House.	1.	It not only terminates a sitting but also a session of the House.
2.	It is done by presiding officer of the House.	2.	It is done by the president of India.
3.	It does not affect the bills or any other business pending before the House and the same can be resumed when the House meets again.	3.	It also does not affect the bills or any other business pending before the House. However, all pending notices (other than those for introducing bills) lapse on prorogation and fresh notices have to be given for the next session. In Britain, prorogation brings to an end all bills or any other business pending before the House.

#### Adjournment

- ✓ A sitting of Parliament can be terminated by adjournment or adjournment *sine die* or prorogation or dissolution (in the case of the Lok Sabha).
- ✓ An adjournment suspends the work in a sitting for a specified time, which may be hours, days or weeks.

#### Adjournment *Sine Die*

- ✓ Adjournment *sine die* means terminating a sitting of Parliament for an indefinite period.

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- ✓ In other words, when the House is adjourned without naming a day for reassembly, it is called adjournment *sine die*.
- ✓ The power of adjournment as well as adjournment *sine die* lies with the presiding officer of the House.
- ✓ He can also call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned *sine die*.

### **Prorogation**

- ✓ The presiding officer (Speaker or Chairman) declares the House adjourned *sine die*, when the business of a session is completed.
- ✓ Within the next few days, the President issues a notification for prorogation of the session.
- ✓ However, the President can also prorogue the House while in session.

### **Dissolution**

- ✓ Rajya Sabha, being a permanent House, is not subject to dissolution.
- ✓ Only the Lok Sabha is subject to dissolution.
- ✓ Unlike a prorogation, a dissolution ends the very life of the existing House, and a new House is constituted after general elections are held. The dissolution of the Lok Sabha may take place in either of two ways:
  1. Automatic dissolution, that is, on the expiry of its tenure of five years or the terms as extended during a national emergency; or
  2. Whenever the President decides to dissolve the House, which he is authorised to do. Once the Lok Sabha is dissolved before the completion of its normal tenure, the dissolution is irrevocable.
- ✓ When the Lok Sabha is dissolved, all business including bills, motions, resolutions, notices, petitions and so on pending before it or its committees lapse.
- ✓ must be reintroduced in the newly-constituted Lok Sabha.
- ✓ However, some pending bills and all pending assurances that are to be examined by the Committee on Government Assurances do not lapse on the dissolution of the Lok Sabha. The position with respect to lapsing of bills is as follows:
  1. A bill pending in the Lok Sabha lapses (whether originating in the Lok Sabha or transmitted to it by the Rajya Sabha).
  2. A bill passed by the Lok Sabha but pending in the Rajya Sabha lapses.
  3. A bill not passed by the two Houses due to disagreement and if the president has notified the holding of a joint sitting before the dissolution of Lok Sabha, does not lapse.
  4. A bill pending in the Rajya Sabha but not passed by the Lok Sabha does not lapse.
  5. A bill passed by both Houses but pending assent of the president does not lapse.
  6. A bill passed by both Houses but returned by the president for reconsideration of Houses does not lapse.

### **Quorum**

- ✓ Quorum is the minimum number of members required to be present in the House before it can transact any business.
- ✓ It is one-tenth of the total number of members in each House including the presiding officer.
- ✓ It means that there must be at least 55 members present in the Lok Sabha and 25 members present in the Rajya Sabha, if any business is to be conducted.
- ✓ If there is no quorum during a meeting of the House, it is the duty of the presiding officer either to adjourn the House or to suspend the meeting until there is a quorum.

### **Rights of Ministers and Attorney General**

- ✓ In addition to the members of a House, every minister and the attorney general of India have the right to speak and take part in the proceedings of either House, any joint sitting of both the Houses and any committee of Parliament of which he is a member, without being entitled to vote.
- ✓ There are two reasons underlying this constitutional provision:
  1. A minister can participate in the proceedings of a House, of which he is not a member. In other words, a minister belonging to the Lok Sabha can participate in the proceedings of the Rajya Sabha and vice-versa.
  2. A minister, who is not a member of either House, can participate in the proceedings of both the Houses. It should be noted here that a person can remain a minister for six months, without being a member of either House of Parliament.

### **Lame-duck Session**

- ✓ It refers to the last session of the existing Lok Sabha, after a new Lok Sabha has been elected.
- ✓ Those members of the existing Lok Sabha who could not get re-elected to the new Lok Sabha are called lame-ducks.

### **Devices of Parliamentary Proceedings**

#### **Question Hour**

- ✓ The first hour of every parliamentary sitting is slotted for this.
- ✓ During this time, the members ask questions and the ministers usually give answers.
- ✓ The questions are of three kinds, namely, starred, unstarred and short notice.

A **starred question** (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.

An **unstarred question**, on the other hand, requires a written answer and hence, supplementary questions cannot follow.

A **short notice question** is one that is asked by giving a notice of less than ten days. It is answered orally.

#### **Zero Hour**

- ✓ Unlike the question hour, the zero hour is not mentioned in the Rules of Procedure.
- ✓ It is an informal device available to the members of the Parliament to raise matters without any prior notice.
- ✓ The zero hour starts immediately after the question hour and lasts until the agenda for the day (ie regular business of the House) is taken up.
- ✓ In other words, the time gap between the question hour and the agenda is known as zero hour.
- ✓ It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.

#### **Motions**

- ✓ No discussion on a matter of general public importance can take place except on a motion made with the consent of the presiding officer.
- ✓ The House expresses its decisions or opinions on various issues through the adoption or rejection of motions moved by either ministers or private members.

The motions moved by the members to raise discussions on various matters fall into three principal categories:

1. **Substantive Motion:** It is a self-contained independent proposal dealing with a very important matter like impeachment of the President or removal of Chief Election Commissioner.

2. **Substitute Motion:** It is a motion that is moved in substitution of an original motion and proposes an alternative to it. If adopted by the House, it supersedes the original motion.
3. **Subsidiary Motion:** It is a motion that, by itself, has no meaning and cannot state the decision of the House without reference to the original motion or proceedings of the House. It is divided into three sub-categories:
  - (a) **Ancillary Motion:** It is used as the regular way of proceeding with various kinds of business.
  - (b) **Superseding Motion:** It is moved in the course of debate on another issue and seeks to supersede that issue.
  - (c) **Amendment:** It seeks to modify or substitute only a part of the original motion.

### Closure Motion

- ✓ It is a motion moved by a member to cut short the debate on a matter before the House.
- ✓ If the motion is approved by the House, debate is stopped forthwith and the matter is put to vote. There are four kinds of closure motions:
  - (a) **Simple Closure:** It is one when a member moves that the 'matter having been sufficiently discussed be now put to vote'.
  - (b) **Closure by Compartments:** In this case, the clauses of a bill or a lengthy resolution are grouped into parts before the commencement of the debate. The debate covers the part as a whole and the entire part is put to vote.
  - (c) **Kangaroo Closure:** Under this type, only important clauses are taken up for debate and voting and the intervening clauses are skipped over and taken as passed.
  - (d) **Guillotine Closure:** It is one when the undiscussed clauses of a bill or a resolution are also put to vote along with the discussed ones due to want of time (as the time allotted for the discussion is over).

### Privilege Motion

- ✓ It is concerned with the breach of parliamentary privileges by a minister.
- ✓ It is moved by a member when he feels that a minister has committed a breach of privilege of the House or one or more of its members by withholding facts of a case or by giving wrong or distorted facts.
- ✓ Its purpose is to censure the concerned minister.

### Calling Attention Motion

- ✓ It is introduced in the Parliament by a member to call the attention of a minister to a matter of urgent public importance, and to seek an authoritative statement from him on that matter.
- ✓ Like the zero hour, it is also an Indian innovation in the parliamentary procedure and has been in existence since 1954.
- ✓ However, unlike the zero hour, it is mentioned in the Rules of Procedure.

	<b>Censure Motion</b>		<b>No-Confidence Motion</b>
1.	It should state the reasons for its adoption in the Lok Sabha.	1.	It need not state the reasons for its adoption in the Lok Sabha.
2.	It can be moved against an individual minister or a group of ministers or the entire council of ministers.	2.	It can be moved against the entire council of ministers only.

3.	It is moved for censuring the council of ministers for specific policies and actions.	3.	It is moved for ascertaining the confidence of Lok Sabha in the council of ministers.
4.	If it is passed in the Lok Sabha, the council of ministers need not resign from the office.	4.	If it is passed in the Lok Sabha, the council of ministers must resign from office.

**Adjournment Motion**

- ✓ It is introduced in the Parliament to draw attention of the House to a definite matter of urgent public importance, and needs the support of 50 members to be admitted.
- ✓ As it interrupts the normal business of the House, it is regarded as an extraordinary device.
- ✓ It involves an element of censure against the government and hence Rajya Sabha is not permitted to make use of this device.
- ✓ The discussion on an adjournment motion should last for not less than two hours and thirty minutes.

The right to move a motion for an adjournment of the business of the House is subject to the following restrictions:

1. It should raise a matter which is definite, factual, urgent and of public importance;
2. It should not cover more than one matter;
3. It should be restricted to a specific matter of recent occurrence and should not be framed in general terms;
4. It should not raise a question of privilege;
5. It should not revive discussion on a matter that has been discussed in the same session;
6. It should not deal with any matter that is under adjudication by court; and
7. It should not raise any question that can be raised on a distinct motion.

**No-Confidence Motion**

- ✓ the Lok Sabha can remove the ministry from office by passing a no-confidence motion. The motion needs the support of 50 members to be admitted.

**Censure Motion**

- ✓ A censure motion is different from a no-confidence motion as shown in Table 22.2.

**Motion of Thanks**

- ✓ The first session after each general election and the first session of every fiscal year is addressed by the president.
- ✓ In this address, the president outlines the policies and programmes of the government in the preceding year and ensuing year. This address of the president, which corresponds to the 'speech from the Throne in Britain', is discussed in both the Houses of Parliament on a motion called the 'Motion of Thanks'. At the end of the discussion, the motion is put to vote.
- ✓ This motion must be passed in the House.
- ✓ Otherwise, it amounts to the defeat of the government. This inaugural speech of the president is an occasion available to the members of Parliament to raise discussions and debates to examine and criticise the government and administration for its lapses and failures.

**No-Day-Yet-Named Motion**

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- ✓ It is a motion that has been admitted by the Speaker but no date has been fixed for its discussion.
- ✓ The Speaker, after considering the state of business in the House and in consultation with the leader of the House or on the recommendation of the Business Advisory Committee, allots a day or days or part of a day for the discussion of such a motion.

### **Point of Order**

- ✓ A member can raise a point of order when the proceedings of the House do not follow the normal rules of procedure.
- ✓ A point of order should relate to the interpretation or enforcement of the Rules of the House or such articles of the Constitution that regulate the business of the House and should raise a question that is within the cognizance of the Speaker.
- ✓ usually raised by an opposition member in order to control the government.
- ✓ an extraordinary device as it suspends the proceedings before the House.
- ✓ No debate is allowed on a point of order.

### **Half-an-Hour Discussion**

- ✓ It is meant for discussing a matter of sufficient public importance, which has been subjected to a lot of debate and the answer to which needs elucidation on a matter of fact.
- ✓ The Speaker can allot three days in a week for such discussions. There is no formal motion or voting before the House.

### **Short Duration Discussion**

- ✓ It is also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. The members of the Parliament can raise such discussions on a matter of urgent public importance.
- ✓ The Speaker can allot two days in a week for such discussions.
- ✓ There is neither a formal motion before the house nor voting. This device has been in existence since 1953.

### **Special Mention**

- ✓ A matter which is not a point of order or which cannot be raised during question hour, half-an hour discussion, short duration discussion or under adjournment motion, calling attention notice or under any rule of the House can be raised under the special mention in the Rajya Sabha. Its equivalent procedural device in the Lok Sabha is known as 'Notice (Mention) Under Rule 377'.
- ✓ Resolutions The members can move resolutions to draw the attention of the House or the government to matters of general public interest. The discussion on a resolution is strictly relevant to and within the scope of the resolution. A member who has moved a resolution or amendment to a resolution cannot withdraw the same except by leave of the House.

Resolutions are classified into three categories:

1. **Private Member's Resolution:** It is one that is moved by a private member (other than a minister). It is discussed only on alternate Fridays and in the afternoonsitting.
2. **Government Resolution:** It is one that is moved by a minister. It can be taken up any day from Monday to Thursday.
3. **Statutory Resolution:** It can be moved either by a private member or a minister. It is so called because it is always tabled in pursuance of a provision in the Constitution or an Act of Parliament.

Resolutions are different from motions in the following respects:

“All resolutions come in the category of substantive motions, that is to say, every resolution is a particular type of motion. All motions need not necessarily be substantive. Further, all motions are not necessarily put to vote of the House, whereas all the resolutions are required to be voted upon.”<sup>17</sup>

### **Youth Parliament**

The scheme of Youth Parliament was started on the recommendation of the Fourth All India Whips Conference. Its objectives are:

1. to acquaint the younger generations with practices and procedures of Parliament;
2. to imbibe the spirit of discipline and tolerance cultivating character in the minds of youth; and
3. to inculcate in the student community the basic values of democracy and to enable them to acquire a proper perspective on the functioning of democratic institutions.

The ministry of parliamentary affairs provides necessary training and encouragement to the states in introducing the scheme.

### **Legislative Procedure in Parliament**

The legislative procedure is identical in both the Houses of Parliament. Every bill has to pass through the same stages in each House. A bill is a proposal for legislation and it becomes an act or law when duly enacted.

	<b><i>Public Bill</i></b>		<b><i>Private Bill</i></b>
1.	It is introduced in the Parliament by a minister.	1.	It is introduced by any member of Parliament other than a minister.
2.	It reflects the policies of the government (ruling party).	2.	It reflects the stand of opposition party on public matter.
3.	It has greater chance to be approved by the	3.	It has lesser chance to be approved by the
			Parliament.
4.	Its rejection by the House amounts to the exp-	4.	Its rejection by the House has no
5.	Its introduction in the House requires seven days'	5.	Its introduction in the House requires one
6.	It is drafted by the concerned department in consultation with the law department.	6.	Its drafting is the responsibility of the member concerned.

The bills introduced in the Parliament can also be classified into four categories:

1. Ordinary bills, which are concerned with any matter other than financial subjects.
2. Money bills, which are concerned with the financial matters like taxation, public expenditure, etc.
3. Financial bills, which are also concerned with financial matters (but are different from money bills).
4. Constitution amendment bills, which are concerned with the amendment of the provisions of the Constitution.

The Constitution has laid down separate procedures for the enactment of all the four types of bills. The procedures with regard to ordinary bills, money bills and financial bills are explained here. The procedure with regard to Constitution amendment bills is explained in detail in Chapter 10.



## **Ordinary Bills**

Every ordinary bill has to pass through the following five stages in the Parliament before it finds a place on the Statute Book:

### **1. First Reading**

### **2. Second Reading**

**Stage of General Discussion, Committee Stage, Consideration Stage**

### **3. Third Reading**

**4. Bill in the Second House** In the second House also, the bill passes through all the three stages, that is, first reading, second reading and third reading. There are four alternatives before this House:

- (a) it may pass the bill as sent by the first house (ie, without amendments);
  - (b) it may pass the bill with amendments and return it to the first House for reconsideration;
  - (c) it may reject the bill altogether; and
  - (d) it may not take any action and thus keep the bill pending.
- ✓ If the second House passes the bill without any amendments or the first House accepts the amendments suggested by the second House, the bill is deemed to have been passed by both the Houses and the same is sent to the president for his assent.
  - ✓ On the other hand, if the first House rejects the amendments suggested by the second House or the second House rejects the bill altogether or the second House does not take any action for six months, a deadlock is deemed to have taken place.
  - ✓ To resolve such a deadlock, the president can summon a joint sitting of the two Houses. If the majority of members present and voting in the joint sitting approves the bill, the bill is deemed to have been passed by both the Houses.

**5. Assent of the President** Every bill after being passed by both Houses of Parliament either singly or at a joint sitting, is presented to the president for his assent. There are three alternatives before the president:

- (a) he may give his assent to the bill; or
  - (b) he may withhold his assent to the bill; or
  - (c) he may return the bill for reconsideration of the Houses.
- ✓ If the president gives his assent to the bill, the bill becomes an act and is placed on the Statute Book. If the President withholds his assent to the bill, it ends and does not become an act.
  - ✓ If the President returns the bill for reconsideration and if it is passed by both the Houses again with or without amendments and presented to the President for his assent, the president must give his assent to the bill. Thus, the President enjoys only a “suspensive veto.”

## **Money Bills**

Article 110 of the Constitution deals with the definition of money bills. It states that a bill is deemed to be a money bill if it contains ‘only’ provisions dealing with all or any of the following matters:

1. The imposition, abolition, remission, alteration or regulation of anytax;
2. The regulation of the borrowing of money by the Union government;

3. The custody of the Consolidated Fund of India or the contingency fund of India, the payment of moneys into or the withdrawal of money from any such fund;
4. The appropriation of money out of the Consolidated Fund of India;
5. Declaration of any expenditure charged on the Consolidated Fund of India or increasing the amount of any such expenditure;
6. The receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money, or the audit of the accounts of the Union or of a state; or
7. Any matter incidental to any of the matters specified above.

However, a bill is not to be deemed to be a money bill by reason only that it provides for:

1. the imposition of fines or other pecuniary penalties, or
  2. the demand or payment of fees for licenses or fees for services rendered; or
  3. the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.
- ✓ If any question arises whether a bill is a money bill or not, the decision of the Speaker of the Lok Sabha is final. His decision in this regard cannot be questioned in any court of law or in the either House of Parliament or even the president.
  - ✓ When a money bill is transmitted to the Rajya Sabha for recommendation and presented to the president for assent, the Speaker endorses it as a money bill.
  - ✓ A money bill can only be introduced in the Lok Sabha and that too on the recommendation of the president. Every such bill is considered to be a government bill and can be introduced only by a minister.
  - ✓ The Rajya Sabha has restricted powers with regard to a money bill. It cannot reject or amend a money bill. It can only make the recommendations. It must return the bill to the Lok Sabha within 14 days, with or without recommendations. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha.
  - ✓ If the Rajya Sabha does not return the bill to the Lok Sabha within 14 days, the bill is deemed to have been passed by both the Houses in the form originally passed by the Lok Sabha. Thus, the Lok Sabha has more powers than Rajya Sabha with regard to a money bill.
  - ✓ On the other hand, both the Houses have equal powers with regard to an ordinary bill.
  - ✓ Finally, when a money bill is presented to the president, he may either give his assent to the bill or withhold his assent to the bill but cannot return the bill for reconsideration of the Houses. Normally, the president gives his assent to a money bill as it is introduced in the Parliament with his prior permission.

### **Financial Bills**

- ✓ Financial bills are those bills that deal with fiscal matters, that is, revenue or expenditure. However, the Constitution uses the term 'financial bill' in a technical sense. Financial bills are of three kinds:
  1. Money bills—Article 110
  2. Financial bills (I)—Article 117 (1)
  3. Financial bills (II)—Article 117 (3)
- ✓ money bills are simply a species of financial bills. Hence, all money bills are financial bills but all financial bills are not money bills.
- ✓ Only those financial bills are money bills which contain exclusively those matters which are mentioned in Article 110 of the Constitution.

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- ✓ These are also certified by the Speaker of Lok Sabha as money bills. The financial bills (I) and (II), on the other hand, have been dealt with in Article 117 of the Constitution.

	<b>Ordinary Bill</b>		<b>Money Bill</b>
1.	It can be introduced either in the Lok Sabha or the Rajya Sabha.	1.	It can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2.	It can be introduced either by a minister or by a private member.	2.	It can be introduced only by a minister.
3.	It is introduced without the recommendation of the president.	3.	It can be introduced only on the recommendation of the President.
4.	It can be amended or rejected by the Rajya Sabha.	4.	It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without
			recommendations, which may be accepted or rejected by the Lok Sabha.
5.	It can be detained by the Rajya Sabha for a maximum period of six months.	5.	It can be detained by the Rajya Sabha for a maximum period of 14 days only.
6.	It does not require the certification of the Speaker when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha).	6.	It requires the certification of the Speaker when transmitted to the Rajya Sabha.
7.	It is sent for the President's assent only after being approved by both the Houses. In case of a deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock.	7.	It is sent for the President's assent even if it is approved by only Lok Sabha. There is no chance of any disagreement between the two Houses and hence, there is no provision of joint sitting of both the Houses in this regard.
8.	Its defeat in the Lok Sabha may lead to the resignation of the government (if it is introduced by a minister).	8.	Its defeat in the Lok Sabha leads to the resignation of the government.
9.	It can be rejected, approved, or returned for reconsideration by the President.	9.	It can be rejected or approved but cannot be returned for reconsideration by the President.

**Financial Bills (I)**

- ✓ contains not only any or all the matters mentioned in Article 110, but also other matters of general legislation.
- ✓ a bill that contains a borrowing clause, but does not exclusively deal with borrowing. In two respects, a financial bill (I) is similar to a money bill—(a) both of them can be introduced only in the Lok Sabha and not in the Rajya Sabha, and (b) both of them can be introduced only on the recommendation of the president.
- ✓ In all other respects, a financial bill (I) is governed by the same legislative procedure applicable to an ordinary bill.

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- ✓ Hence, it can be either rejected or amended by the Rajya Sabha (except that an amendment other than for reduction or abolition of a tax cannot be moved in either House without the recommendation of the president).
- ✓ In case of a disagreement between the two Houses over such a bill, the president can summon a joint sitting of the two Houses to resolve the deadlock.

### **Financial Bills (II)**

- ✓ A financial bill (II) contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in Article 110.
- ✓ It is treated as an ordinary bill and in all respects, it is governed by the same legislative procedure which is applicable to an ordinary bill. The only special feature of this bill is that it cannot be passed by either House of Parliament unless the President has recommended to that House the consideration of the bill.
- ✓ financial bill (II) can be introduced in either House of Parliament and recommendation of the President is not necessary for its introduction. It can be either rejected or amended by either House of Parliament. In case of a disagreement between the two Houses over such a bill, the President can summon a joint sitting of the two Houses to resolve the deadlock.

### **Joint Sitting of Two Houses**

- ✓ Joint sitting is an extraordinary machinery provided by the Constitution to resolve a deadlock between the two Houses over the passage of a bill. A deadlock is deemed to have taken place under any one of the following three situations after a bill has been passed by one House and transmitted to the other House:
  1. if the bill is rejected by the other House;
  2. if the Houses have finally disagreed as to the amendments to be made in the bill; or
  3. if more than six months have elapsed from the date of the receipt of the bill by the other House without the bill being passed by it.
- ✓ In the above three situations, the president can summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the bill.
- ✓ It must be noted here that the provision of joint sitting is applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills.
- ✓ In the case of a money bill, the Lok Sabha has overriding powers, while a Constitutional amendment bill must be passed by each House separately.
- ✓ In reckoning the period of six months, no account can be taken of any period during which the other House (to which the bill has been sent) is prorogued or adjourned for more than four consecutive days.
- ✓ If the bill (under dispute) has already lapsed due to the dissolution of the Lok Sabha, no joint sitting can be summoned.
- ✓ But, the joint sitting can be held if the Lok Sabha is dissolved after the President has notified his intention to summon such a sitting (as the bill does not lapse in this case). After the President notifies his intention to summon a joint sitting of the two Houses, none of the Houses can proceed further with the bill.
- ✓ The Speaker of Lok Sabha presides over a joint sitting of the two Houses and the Deputy Speaker, in his absence.
- ✓ If the Deputy Speaker is also absent from a joint sitting, the Deputy Chairman of Rajya Sabha presides.
- ✓ If he is also absent, such other person as may be determined by the members present at the joint sitting, presides over the meeting. It is clear that the Chairman of Rajya Sabha does not preside over a joint sitting as he is not a member of either House of Parliament.

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The Constitution has specified that at a joint sitting, new amendments to the bill cannot be proposed except in two cases:

1. those amendments that have caused final disagreement between the Houses; and
2. those amendments that might have become necessary due to the delay in the passage of the bill.

**Since 1950, the provision regarding the joint sitting of the two Houses has been invoked only thrice.**

### **Budget in Parliament**

- ✓ The Constitution refers to the budget as the 'annual financial statement'. In other words, the term 'budget' has nowhere been used in the Constitution.
- ✓ It is the popular name for the 'annual financial statement' that has been dealt with in Article 112 of the Constitution.
- ✓ The budget is a statement of the estimated receipts and expenditure of the Government of India in a financial year, which begins on 1 April and ends on 31 March of the following year.

In addition to the estimates of receipts and expenditure, the budget contains certain other elements. Overall, the budget contains the following:

1. Estimates of revenue and capital receipts;
  2. Ways and means to raise the revenue;
  3. Estimates of expenditure;
  4. Details of the actual receipts and expenditure of the closing financial year and the reasons for any deficit or surplus in that year; and
  5. Economic and financial policy of the coming year, that is, taxation proposals, prospects of revenue, spending programme and introduction of new schemes/projects.
- ✓ The Government of India has two budgets, namely, the Railway Budget and the General Budget. While the former consists of the estimates of receipts and expenditures of only the Ministry of Railways, the latter consists of the estimates of receipts and expenditure of all the ministries of the Government of India (except the railways).

The Railway Budget was separated from the General Budget in 1921 on the recommendations of the Acworth Committee. The reasons or objectives of this separation are as follows:

1. To introduce flexibility in railway finance.
2. To facilitate a business approach to the railway policy.
3. To secure stability of the general revenues by providing an assured annual contribution from railway revenues.
4. To enable the railways to keep their profits for their own development (after paying a fixed annual contribution to the general revenues).

### **Constitutional Provisions**

The Constitution of India contains the following provisions with regard to the enactment of budget:

1. Parliament can reduce or abolish a tax but cannot increase it.
2. The Constitution has also defined the relative roles or position of both the Houses of Parliament with regard to the enactment of the budget in the following way:
  - (a) A money bill or finance bill dealing with taxation cannot be introduced in the Rajya Sabha—it

must be introduced only in the Lok Sabha.

- (b) The Rajya Sabha has no power to vote on the demand for grants; it is the exclusive privilege of the Lok Sabha.
  - (c) The Rajya Sabha should return the Money bill (or Finance bill) to the Lok Sabha within fourteen days. The Lok Sabha can either accept or reject the recommendations made by Rajya Sabha in this regard.
- 3. The estimates of expenditure embodied in the budget shall show separately the expenditure charged on the Consolidated Fund of India and the expenditure made from the Consolidated Fund of India.
  - 4. The budget shall distinguish expenditure on revenue account from other expenditure.

### **Charged Expenditure**

The budget consists of two types of expenditure—the expenditure ‘charged’ upon the Consolidated Fund of India and the expenditure ‘made’ from the Consolidated Fund of India. The charged expenditure is non-votable by the Parliament, that is, it can only be discussed by the P a r l i a m e n t , while the other type has to be voted by the Parliament. The list of the charged expenditure is as follows:

- 1. Emoluments and allowances of the President and other expenditure relating to his office.
- 2. Salaries and allowances of the Chairman and the Deputy Chairman of the Rajya Sabha and the Speaker and the Deputy Speaker of the Lok Sabha.
- 3. Salaries, allowances and pensions of the judges of the Supreme Court.
- 4. Pensions of the judges of high courts.
- 5. Salary, allowances and pension of the Comptroller and Auditor General of India.
- 6. Salaries, allowances and pension of the chairman and members of the Union Public Service Commission.
- 7. Administrative expenses of the Supreme Court, the office of the Comptroller and Auditor General of India and the Union Public Service Commission including the salaries, allowances and pensions of the persons serving in these offices.
- 8. The debt charges for which the Government of India is liable, including interest, sinking fund charges and redemption charges and other expenditure relating to the raising of loans and the service and redemption of debt.
- 9. Any sum required to satisfy any judgement, decree or award of any court or arbitral tribunal.

### **Any other expenditure declared by the Parliament to be so charged. Stages in Enactment**

The budget goes through the following six stages in the Parliament:

- 1. Presentation of budget.
- 2. General discussion.
- 3. Scrutiny by departmental committees.
- 4. Voting on demands for grants.
- 5. Passing of appropriation bill.
- 6. Passing of finance bill.

**1. Presentation of Budget** The budget is presented in two parts—Railway Budget and General Budget. Both are governed by the same procedure.

The introduction of Railway Budget precedes that of the General Budget. While the former is presented to the Lok Sabha by the railway minister in the third week of February, the latter is presented to the Lok Sabha by the finance

minister on the last working day of February.

- The Finance Minister presents the General Budget with a speech known as the 'budget speech'. At the end of the speech in the Lok Sabha, the budget is laid before the Rajya Sabha, which can only discuss it and has no power to vote on the demands for grants.

## **2. General Discussion**

## **3. Scrutiny by Departmental Committees**

## **4. Voting on Demands for Grants**

- In the light of the reports of the departmental standing committees, the Lok Sabha takes up voting of demands for grants. The demands are presented ministry wise. A demand becomes a grant after it has been duly voted.
- Two points should be noted in this context. One, the voting of demands for grants is the exclusive privilege of the Lok Sabha, that is, the Rajya Sabha has no power of voting the demands. Second, the voting is confined to the votable part of the budget—the expenditure charged on the Consolidated Fund of India is not submitted to the vote (it can only be discussed).
- While the General Budget has a total of 109 demands (103 for civil expenditure and 6 for defence expenditure), the Railway Budget has 32 demands.
- Each demand is voted separately by the Lok Sabha. During this stage, the members of Parliament can discuss the details of the budget.
- They can also move motions to reduce any demand for grant. Such motions are called as 'cut motion', which are of three kinds:

**(a) Policy Cut Motion** It represents the disapproval of the policy underlying the demand. It states that the amount of the demand be reduced to Re 1. The members can also advocate an alternative policy.

**(b) Economy Cut Motion** It represents the economy that can be affected in the proposed expenditure. It states that the amount of the demand be reduced by a specified amount (which may be either a lumpsum reduction in the demand or omission or reduction of an item in the demand).

**(c) Token Cut Motion** It ventilates a specific grievance that is within the sphere of responsibility of the Government of India. It states that the amount of the demand be reduced by Rs 100.

A cut motion, to be admissible, must satisfy the following conditions:

- (i) It should relate to one demand only.
  - (ii) It should be clearly expressed and should not contain arguments or defamatory statements.
  - (iii) It should be confined to one specific matter.
  - (iv) It should not make suggestions for the amendment or repeal of existing laws.
  - (v) It should not refer to a matter that is not primarily the concern of Union government.
  - (vi) It should not relate to the expenditure charged on the Consolidated Fund of India.
  - (vii) It should not relate to a matter that is under adjudication by a court.
  - (viii) It should not raise a question of privilege.
  - (ix) It should not revive discussion on a matter on which a decision has been taken in the same session.
  - (x) It should not relate to a trivial matter.
- ✓ In total, 26 days are allotted for the voting of demands. On the last day the Speaker puts all the remaining demands to vote and disposes them whether they have been discussed by the members or not. This is



known as ‘guillotine’.

**5. Passing of Appropriation Bill** The Constitution states that ‘no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law’. Accordingly, an appropriation bill is introduced to provide for the appropriation, out of the Consolidated Fund of India, all money required to meet:

- (a) The grants voted by the Lok Sabha.
  - (b) The expenditure charged on the Consolidated Fund of India.
- ✓ The Appropriation Bill becomes the Appropriation Act after it is assented to by the President. This act authorises (or legalises) the payments from the Consolidated Fund of India. This means that the government cannot withdraw money from the Consolidated Fund of India till the enactment of the appropriation bill. This takes time and usually goes on till the end of April. But the government needs money to carry on its normal activities after 31 March (the end of the financial year). To overcome this functional difficulty, the Constitution has authorised the Lok Sabha to make any grant in advance in respect to the estimated expenditure for a part of the financial year, pending the completion of the voting of the demands for grants and the enactment of the appropriation bill. This provision is known as the ‘vote on account’. It is passed (or granted) after the general discussion on budget is over. It is generally granted for two months for an amount equivalent to one-sixth of the total estimation.

**6. Passing of Finance Bill** The Finance Bill is introduced to give effect to the financial proposals of the Government of India for the following year. It is subjected to all the conditions applicable to a Money Bill. Unlike the Appropriation Bill, the amendments (seeking to reject or reduce a tax) can be moved in the case of finance bill.

According to the Provisional Collection of Taxes Act of 1931, the Finance Bill must be enacted (i.e., passed by the Parliament and assented to by the president) within 75 days.

The Finance Act legalizes the income side of the budget and completes the process of the enactment of the budget.

### **Other Grants**

In addition to the budget that contains the ordinary estimates of income and expenditure for one financial year, various other grants are made by the Parliament under extraordinary or special circumstances:

#### **Supplementary Grant**

- ✓ granted when the amount authorised by the Parliament through the appropriation act for a particular service for the current financial year is found to be insufficient for that year.

#### **Additional Grant**

- ✓ granted when a need has arisen during the current financial year for additional expenditure upon some new service not contemplated in the budget for that year.

#### **Excess Grant**

- ✓ granted when money has been spent on any service during a financial year in excess of the amount granted for that service in the budget for that year. It is voted by the Lok Sabha after the financial year. Before the demands for excess grants are submitted to the Lok Sabha for voting, they must be approved by the Public Accounts Committee of Parliament.

#### **Vote of Credit**

- ✓ granted for meeting an unexpected demand upon the resources of India, when on account of the magnitude

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or the indefinite character of the service, the demand cannot be stated with the details ordinarily given in a budget. Hence, it is like a blank cheque given to the Executive by the Lok Sabha.

### **Exceptional Grant**

- ✓ granted for a special purpose and forms no part of the current service of any financial year.

### **Token Grant**

- ✓ granted when funds to meet the proposed expenditure on a new service can be made available by reappropriation. A demand for the grant of a token sum (of Re 1) is submitted to the vote of the Lok Sabha and if assented, funds are made available. Reappropriation involves transfer of funds from one head to another. It does not involve any additional expenditure.

## **Funds**

The Constitution of India provides for the following three kinds of funds for the Central government:

1. Consolidated Fund of India (Article 266)
2. Public Account of India (Article 266)
3. Contingency Fund of India (Article 267)

### **Consolidated Fund of India**

- ✓ It is a fund to which all receipts are credited and all payments are debited. In other words, (a) all revenues received by the Government of India; (b) all loans raised by the Government by the issue of treasury bills, loans or ways and means of advances; and (c) all money received by the government in repayment of loans forms the Consolidated Fund of India.
- ✓ All the legally authorised payments on behalf of the Government of India are made out of this fund. No money out of this fund can be appropriated (issued or drawn) except in accordance with a parliamentary law.

### **Public Account of India**

- ✓ All other public money (other than those which are credited to the Consolidated Fund of India) received by or on behalf of the Government of India shall be credited to the Public Account of India.
- ✓ This includes provident fund deposits, judicial deposits, savings bank deposits, departmental deposits, remittances and so on.
- ✓ This account is operated by executive action, that is, the payments from this account can be made without parliamentary appropriation. Such payments are mostly in the nature of banking transactions.

### **Contingency Fund of India**

- ✓ The Constitution authorised the Parliament to establish a 'Contingency Fund of India', into which amounts determined by law are paid from time to time.
- ✓ the Parliament enacted the contingency fund of India Act in 1950.
- ✓ This fund is placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament. The fund is held by the finance secretary on behalf of the president. Like the public account of India, it is also operated by executive action.

## **Multifunctional Role of Parliament**

In the 'Indian politico-administrative system', the Parliament occupies a central position and has a multifunctional

role. It enjoys extensive powers and performs a variety of functions towards the fulfilment of its constitutionally expected role. Its powers and functions can be classified under the following heads:

1. Legislative Powers and Functions
2. Executive Powers and Functions
3. Financial Powers and Functions
4. Constituent Powers and Functions
5. Judicial Powers and Functions
6. Electoral Powers and Functions
7. Other powers and functions.

## **1. Legislative Powers and Functions**

- ✓ The primary function of Parliament is to make laws for the governance of the country.
- ✓ It has exclusive power to make laws on the subjects enumerated in the Union List (which at present has 100 subjects, originally 97 subjects) and on the residuary subjects (that is, subjects not enumerated in any of the three lists).
- ✓ With regard to Concurrent List (which has at present 52 subjects, originally 47 subjects), the Parliament has overriding powers, that is, the law of Parliament prevails over the law of the state legislature in case of a conflict between the two.

The Constitution also empowers the Parliament to make laws on the subjects enumerated in the State List (which at present has 61 subjects, originally 66 subjects) under the following five abnormal circumstances:

- (a) when Rajya Sabha passes a resolution to that effect.
  - (b) when a proclamation of National Emergency is in operation.
  - (c) when two or more states make a joint request to the Parliament.
  - (d) when necessary to give effect to international agreements, treaties and conventions.
  - (e) when President's Rule is in operation in the state.
- ✓ All the ordinances issued by the president (during the recess of the Parliament) must be approved by the Parliament within six weeks after its reassembly.
  - ✓ An ordinance becomes inoperative if it is not approved by the parliament within that period.
  - ✓ The Parliament makes laws in a skeleton form and authorises the Executive to make detailed rules and regulations within the framework of the parent law. This is known as **delegated legislation** or executive legislation or subordinate legislation. Such rules and regulations are placed before the Parliament for its examination.

## **2. Executive Powers and Functions**

- ✓ the Parliament exercises control over the Executive through question-hour, zero hour, half-an-hour discussion, short duration discussion, calling attention motion, adjournment motion, no-confidence motion, censure motion and other discussions. It also supervises the activities of the Executive with the help of its committees like committee on government assurance, committee on subordinate legislation, committee on petitions, etc.

The Lok Sabha can also express lack of confidence in the government in the following ways:

- (a) By not passing a motion of thanks on the President's inaugural address.
- (b) By rejecting a moneybill.

- (c) By passing a censure motion or an adjournment motion.
- (d) By defeating the government on a vital issue.
- (e) By passing a cut motion.

### **3. Financial Powers and Functions**

- ✓ The budget is based on the principle of annuality, that is, the Parliament grants money to the government for one financial year. If the granted money is not spent by the end of the financial year, then the balance expires and returns to the Consolidated Fund of India. This practice is known as the 'rule of lapse'.
- ✓ It facilitates effective financial control by the Parliament as no reserve funds can be built without its authorisation.
- ✓ However, the observance of this rule leads to heavy rush of expenditure towards the close of the financial year. This is popularly called as 'March Rush'.

### **4. Constituent Powers and Functions**

- ✓ The Parliament is vested with the powers to amend the Constitution by way of addition, variation or repeal of any provision.
- ✓ The major part of the Constitution can be amended by the Parliament with special majority, that is, a majority (that is, more than 50 per cent) of the total membership of each House and a majority of not less than two-thirds of the members present and voting in each House. Some other provisions of the Constitution can be amended by the Parliament with simple majority, that is, a majority of the members present and voting in each House of Parliament. Only a few provisions of the Constitution can be amended by the Parliament (by special majority) and with the consent of at least half of the state Legislatures (by simple majority).
- ✓ However, the power to initiate the process of the amendment of the Constitution (in all the three cases) lies exclusively in the hands of the Parliament and not the state legislature. There is only one exception, that is, the state legislature can pass a resolution requesting the Parliament for the creation or abolition of the legislative council in the state. Based on the resolution, the Parliament makes an act for amending the Constitution to that effect. To sum up, the Parliament can amend the Constitution in three ways:
  - (a) By simple majority;
  - (b) By special majority; and
  - (c) By special majority but with the consent of half of all the state legislatures.

### **5. Judicial Powers and Functions**

The judicial powers and functions of the Parliament include the following:

- (a) It can impeach the President for the violation of the Constitution.
- (b) It can remove the Vice-President from his office.
- (c) It can recommend the removal of judges (including chief justice) of the Supreme Court and the high courts, chief election commissioner, comptroller and auditor general to the president.
- (d) It can punish its members or outsiders for the breach of its privileges or its contempt.

### **6. Electoral Powers and Functions**

## **7. Other Powers and Functions**

The various other powers and functions of the Parliament include:

- (a) It serves as the highest deliberative body in the country. It discusses various issues of national and international significance.
- (b) It approves all the three types of emergencies (national, state and financial) proclaimed by the President. It can create or abolish the state legislative councils on the recommendation of the concerned state legislative assemblies.
- (c) It can increase or decrease the area, alter the boundaries and change the names of states of the Indian Union.
- (d) It can regulate the organisation and jurisdiction of the Supreme Court and high courts and can establish a common high court for two or more states.

### **Position of Rajya Sabha**

The Constitutional position of the Rajya Sabha (as compared with the Lok Sabha) can be studied from three angles:

- 1. Where Rajya Sabha is equal to Lok Sabha.
- 2. Where Rajya Sabha is unequal to Lok Sabha.

### **Where Rajya Sabha has special powers that are not at all shared with the Lok Sabha Equal Status with Lok Sabha**

In the following matters, the powers and status of the Rajya Sabha are equal to that of the Lok Sabha:

- 1. Introduction and passage of ordinary bills.
- 2. Introduction and passage of Constitutional amendment bills.
- 3. Introduction and passage of financial bills involving expenditure from the Consolidated Fund of India.
- 4. Election and impeachment of the president.
- 5. Election and removal of the Vice-President. However, Rajya Sabha alone can initiate the removal of the vice-president. He is removed by a resolution passed by the Rajya Sabha by a special majority and agreed to by the Lok Sabha by a simple majority.
- 6. Making recommendation to the President for the removal of Chief Justice and judges of Supreme Court and high courts, chief election commissioner and comptroller and auditor general.
- 7. Approval of ordinances issued by the President.
- 8. Approval of proclamation of all three types of emergencies by the President.
- 9. Selection of ministers including the Prime Minister. Under the Constitution, the ministers including the Prime Minister can be members of either House. However, irrespective of their membership, they are responsible only to the Lok Sabha.
- 10. Consideration of the reports of the constitutional bodies like Finance Commission, Union Public Service Commission, comptroller and auditor general, etc.
- 11. Enlargement of the jurisdiction of the Supreme Court and the Union Public Service Commission.

**Unequal Status with Lok Sabha**

In the following matters, the powers and status of the Rajya Sabha are unequal to that of the Lok Sabha:

1. A Money Bill can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2. Rajya Sabha cannot amend or reject a Money Bill. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations.
3. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
4. A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
5. The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
6. The Speaker of Lok Sabha presides over the joint sitting of both the Houses.
7. The Lok Sabha with greater number wins the battle in a joint sitting except when the combined strength of the ruling party in both the Houses is less than that of the opposition parties. Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha).
8. A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
9. The Rajya Sabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticise the policies and activities of the government.

**Special Powers of Rajya Sabha**

Due to its federal character, the Rajya Sabha has been given two exclusive or special powers that are not enjoyed by the Lok Sabha:

1. It can authorise the Parliament to make a law on a subject enumerated in the State List (Article 249).
2. It can authorise the Parliament to create new All-India Services common to both the Centre and states (Article 312).

Even though the Rajya Sabha has been given less powers as compared with the Lok Sabha, its utility is supported on the following grounds:

1. It checks hasty, defective, careless and ill-considered legislation made by the Lok Sabha by making provision of revision and thought.
2. It facilitates giving representation to eminent professionals and experts who cannot face the direct election. The President nominates 12 such persons to the Rajya Sabha.
3. It maintains the federal equilibrium by protecting the interests of the states against the undue interference of the Centre.

**Public Accounts Committee**

- ✓ setup first in 1921 under the provisions of the Government of India Act of 1919 and has since been in existence.
- ✓ At present, it consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha).

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- ✓ The members are elected by the Parliament every year from amongst its members according to the principle of proportional representation by means of the single transferable vote.
- ✓ Thus, all parties get due representation in it.
- ✓ The term of office of the members is one year.
- ✓ A minister cannot be elected as a member of the committee.
- ✓ The chairman of the committee is appointed by the Speaker from amongst its members.
- ✓ Until 1966–67, the chairman of the committee belonged to the ruling party. However, since 1967 a convention has developed whereby the chairman of the committee is selected invariably from the Opposition.
- ✓ The function of the committee is to examine the annual audit reports of the comptroller and auditor general of India (CAG), which are laid before the Parliament by the president. The CAG submits three audit reports to the president, namely, audit report on appropriation accounts, audit report on finance accounts and audit report on public undertakings.

### **Estimates Committee**

- ✓ The first Estimates Committee in the post-independence era was constituted in 1950 on the recommendation of John Mathai, the then finance minister.
- ✓ Originally, it had 25 members but in 1956 its membership was raised to 30.
- ✓ All the thirty members are from Lok Sabha only.
- ✓ The Rajya Sabha has no representation in this committee.
- ✓ These members are elected by the Lok Sabha every year from amongst its members, according to the principles of proportional representation by means of a single transferable vote.
- ✓ Thus, all parties get due representation in it. The term of office is one year.
- ✓ A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party.

In more detail, the functions of the committee are:

1. To report what economies, improvements in organisation, efficiency and administrative reform consistent with the policy underlying the estimates, can be affected.
2. To suggest alternative policies in order to bring about efficiency and economy in administration.
3. To examine whether the money is well laid out within the limits of the policy implied in the estimates.
4. To suggest the form in which the estimates are to be presented to Parliament.

### **Committee on Public Undertakings**

- ✓ it had 15 members (10 from the Lok Sabha and 5 from the Rajya Sabha).
- ✓ However, in 1974, its membership was raised to 22 (15 from the Lok Sabha and 7 from the Rajya Sabha).
- ✓ The members are elected by the Parliament every year from amongst its members according to the principle of proportional representation by means of a single transferable vote.
- ✓ Thus, all parties get due representation in it.
- ✓ The term of office of the members is one year.
- ✓ A minister cannot be elected as a member of the committee.



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- ✓ The chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.
- ✓ Thus, the members of the committee who are from the Rajya Sabha cannot be appointed as the chairman.

The functions of the committee are:

1. To examine the reports and accounts of public undertakings.
2. To examine the reports of the comptroller and auditor general on public undertakings.
3. To examine whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices.
4. To exercise such other functions vested in the public accounts committee and the estimates committee in relation to public undertakings which are allotted to it by the Speaker from time to time.

The committee is not to examine and investigate any of the following:

1. Matters of major government policy as distinct from business or commercial functions of the public undertakings.
2. Matters of day-to-day administration.
3. Matters for the consideration of which machinery is established by any special statute under which a particular public undertaking is established.

### **Departmental Standing Committees**

- ✓ On the recommendation of the Rules Committee of the Lok Sabha, 17 departmentally related standing committees were set-up in 1993.
- ✓ In 2004, seven more such committees were set-up, thus increasing their number from 17 to 24.
- ✓ The standing committees assist the Parliament in debating the budget more effectively. The main objective is to secure more accountability of the Executive to the Parliament, particularly financial accountability.
- ✓ The 24 standing committees cover under their jurisdiction all the ministries / departments of the Central Government.
- ✓ Each standing committee consists of 31 members (21 from Lok Sabha and 10 from Rajya Sabha).
- ✓ The members of the Lok Sabha are nominated by the Speaker from amongst its members, while the members of the Rajya Sabha are nominated by the Chairman from amongst its members.
- ✓ Out of the 24 standing committees, 8 committees work under the Rajya Sabha and 16 committees work under the Lok Sabha.

The functions of each of the standing committees are:

1. To consider the demands for grants of the concerned ministries/departments before they are discussed and voted in the Lok Sabha. Its report should not suggest anything of the nature of cut motions.
2. To examine bills pertaining to the concerned ministries/departments.
3. To consider annual reports of ministries/departments.
4. To consider national basic long-term policy documents presented to the Houses.

### **Business Advisory Committee**

- ✓ The Lok Sabha committee consists of 15 members including the Speaker as its chairman.
- ✓ In the Rajya Sabha, it has 11 members including the Chairman as its *ex-officio* chairman.

**Committee on Private Members' Bills and Resolutions**

- ✓ This is a special committee of the Lok Sabha and consists of 15 members including the Deputy Speaker as its chairman.
- ✓ The Rajya Sabha does not have such a committee.
- ✓ The same function in the Rajya Sabha is performed by the business advisory committee of that House.

**Committee on Government Assurances**

- ✓ In the Lok Sabha, it consists of 15 members and in the Rajya Sabha, it consists of 10 members. It was constituted in 1953.

**Committee on Subordinate Legislation**

- ✓ In both the Houses, the committee consists of 15 members. It was constituted in 1953.

**Committee on Welfare of SCs and STs**

- ✓ It consists of 30 members (20 from Lok Sabha and 10 from Rajya Sabha). Its functions are: (i) to consider the reports of the National Commission for the SCs and the National Commission for the STs; (ii) to examine all matters relating to the welfare of SCs and STs like implementation of constitutional and statutory safeguards, working of welfare programmes, etc.

**Committee on Absence of Members**

- ✓ It considers all applications from members for leave of absence from the sittings of the House; and examines the cases of members who had been absent for a period of 60 days or more without permission. It is a special committee of the Lok Sabha and consists of 15 members.
- ✓ There is no such committee in the Rajya Sabha and all such matters are dealt by the House itself. Rules Committee
- ✓ It considers the matters of procedure and conduct of business in the House and recommends necessary amendments, or additions to the Rules of the House. The Lok Sabha committee consists of 15 members including the Speaker as its *ex-officio* chairman. In Rajya Sabha, it consists of 16 members including the Chairman as its *ex-officio* chairman.

**General Purposes Committee**

- ✓ It considers and advises on matters concerning affairs of the House, which do not fall within the jurisdiction of any other parliamentary committee.
- ✓ In each House, the committee consists of the presiding officer (Speaker/Chairman) as its *ex-officio* chairman, Deputy Speaker (Deputy Chairman in the case of Rajya Sabha), members of panel of chairpersons (panel of vice-chairpersons in the case of Rajya Sabha), chairpersons of all the departmental standing committees of the House, leaders of recognised parties and groups in the House and such other members as nominated by the presiding officer.

**Committee of Privileges**

- ✓ Its functions are semi-judicial in nature.
- ✓ It examines the cases of breach of privileges of the House and its members and recommends appropriate action.
- ✓ The Lok Sabha committee has 15 members, while the Rajya Sabha committee has 10 members.

**Joint Committee on Salaries and Allowances of Members**

- ✓ It was constituted under the Salary, Allowances and Pension of Members of Parliament Act, 1954.
- ✓ It consists of 15 members (10 from Lok Sabha and 5 from Rajya Sabha). It frames rules for regulating payment of salary, allowances and pension to members of Parliament.

**House Committee**

- ✓ It deals with residential accommodation of members and other amenities like food, medical aid, etc. accorded to them in their houses and hostels in Delhi.
- ✓ Both the Houses have their respective House committee. In the Lok Sabha, it consists of 12 members.

**Committee on Petitions**

- ✓ It examines petitions on bills and on matters of general public importance. It also entertains representations from individuals and associations on matters pertaining to Union subjects.
- ✓ The Lok Sabha committee consists of 15 members, while the Rajya Sabha committee consists of 10 members.

**Library Committee**

- ✓ It considers all matters relating to library of Parliament and assist the members in utilising the library services. It consists of nine members (six from Lok Sabha and three from Rajya Sabha).

**Ethics Committee**

- ✓ It was constituted in Rajya Sabha in 1997 and in Lok Sabha in 2000. It enforces the code of conduct of members of Parliament. It examines the cases of misconduct and recommends appropriate action
- ✓ Thus, it is engaged in maintaining discipline and decorum in Parliament.

**Committee on Empowerment of Women**

- ✓ It was constituted in 1997 and consists of 30 members (20 from Lok Sabha and 10 from Rajya Sabha).
- ✓ It considers the reports of the National Commission for Women and examines the measures taken by the Union government to secure status, dignity and equality for women in all fields.

**Committee on Papers Laid on the Table**

- ✓ It was constituted in 1975.
- ✓ The Lok Sabha Committee has 15 members, while the Rajya Sabha Committee has 10 members.
- ✓ It examines all papers laid on the table of the House by ministers to see whether they comply with provisions of the Constitution, Act or Rule.
- ✓ It does not examine statutory notifications and orders that fall under the jurisdiction of the Committee on Subordinate Legislation.

**Joint Committee on Offices of Profit**

- ✓ It examines the composition and character of committees and other bodies appointed by the Central, state and union territory governments and recommends whether persons holding these offices should be disqualified from being elected as members of Parliament or not.
- ✓ It consists of 15 members (10 from Lok Sabha and 5 from Rajya Sabha).

### **Consultative Committees**

- ✓ The consultative committees are attached to various ministries / departments of the Central Government. They consist of members of both the Houses of Parliament. The Minister/Minister of State in-charge of the Ministry concerned acts as the chairman of the consultative committee of that ministry.
- ✓ These committees provide a forum for informal discussions between the ministers and the members of Parliament on policies and programmes of the government and the manner of their implementation.
- ✓ These committees are constituted by the Ministry of Parliamentary Affairs. The guidelines regarding the composition, functions and procedures of these committees are formulated by this Ministry. The Ministry also makes arrangements for holding their meetings both during the session and the inter-session period of Parliament.
- ✓ These committees are normally constituted after the new Lok Sabha is constituted, after general elections for the Lok Sabha. After the constitution of the 14<sup>th</sup> Lok Sabha, 29 consultative committees were constituted in October 2004. Subsequently, three more consultative committees were constituted, thus raising their number to 32.
- ✓ In addition, the separate Informal Consultative Committees of the members of Parliament are also constituted for all the Railway Zones. The members of Parliament belonging to the area falling under a particular Railway Zone are nominated on the Informal Consultative Committee of that Railway Zone. After the constitution of 14<sup>th</sup> Lok Sabha, 16 Informal Consultative Committees for the 16 Railway Zones have been constituted.

Unlike the Consultative Committees attached to various ministries/departments, the meetings of the Informal Consultative Committees are to be arranged during the session periods only.

### **Parliamentary Privileges**

#### **Meaning**

- ✓ Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members.
- ✓ They are necessary in order to secure the independence and effectiveness of their actions. Without these privileges, the Houses can neither maintain their authority, dignity and honour nor can protect their members from any obstruction in the discharge of their parliamentary responsibilities.
- ✓ The Constitution has also extended the parliamentary privileges to those persons who are entitled to speak and take part in the proceedings of a House of Parliament or any of its committees. These include the attorney general of India and Union ministers.
- ✓ It must be clarified here that the parliamentary privileges do not extend to the president who is also an integral part of the Parliament.

#### **Classification**

Parliamentary privileges can be classified into two broad categories:

1. those that are enjoyed by each House of Parliament collectively, and
2. those that are enjoyed by the members individually.

**Collective Privileges** The privileges belonging to each House of Parliament collectively are:

1. It has the right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same. The 44th Amendment Act of 1978 restored the freedom of the press to publish true reports of parliamentary proceedings without prior permission of the House. But this is not

applicable in the case of a secret sitting of the House.

2. It can exclude strangers from its proceedings and hold secret sittings to discuss some important matters.
3. It can make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters.
4. It can punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment (also suspension or expulsion, in case of members).
5. It has the right to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member.
6. It can institute inquiries and order the attendance of witnesses and send for relevant papers and records.
7. The courts are prohibited to inquire into the proceedings of a House or its committees.
8. No person (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the presiding officer.

### **Individual Privileges**

- ✓ The privileges belonging to the members individually are:
  - ✓ They cannot be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session. This privilege is available only in civil cases and not in criminal cases or preventive detention cases.
1. They have freedom of speech in Parliament. No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees. This freedom is subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of Parliament.
  2. They are exempted from jury service. They can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session.

### **Breach of Privilege and Contempt of the House**

“When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member individually or of the House in its collective capacity, the offence is termed as breach of privilege and is punishable by the House.”

- ✓ Any act or omission which obstructs a House of Parliament, its member or its officer in the performance of their functions or which has a tendency, directly or indirectly to produce results against the dignity, authority and honour of the House is treated as contempt of the House.
- ✓ Though the two phrases, ‘breach of privilege’ and ‘contempt of the House’ are used interchangeably, they have different implications. ‘Normally, a breach of privilege may amount to contempt of the House. Likewise, contempt of the House may include a breach of privilege also. Contempt of the House, however, has wider implications. There may be a contempt of the House without specifically committing a breach of privilege’.
- ✓ Similarly, ‘actions which are not breaches of any specific privilege but are offences against the dignity and authority of the House amount to contempt of the House’. For example, disobedience to a legitimate order of the House is not a breach of privilege, but can be punished as contempt of the House.

### **Sources of Privileges**

Originally, the Constitution (Article 105) expressly mentioned two privileges, that is, freedom of speech in Parliament and right of publication of its proceedings.

It should be noted here that the Parliament, till now, has not made any special law to exhaustively codify all the privileges. They are based on five sources, namely,

1. Constitutional provisions,
2. Various laws made by Parliament, Rules of both the Houses,
3. Parliamentary conventions, and
4. Judicial interpretations.

### **Sovereignty of Parliament**

- ✓ The doctrine of ‘sovereignty of Parliament’ is associated with the British Parliament. Sovereignty means the supreme power within the State. That supreme power in Great Britain lies with the Parliament. There are no ‘legal’ restrictions on its authority and jurisdiction.
- ✓ Therefore, the sovereignty of Parliament (parliamentary supremacy) is a cardinal feature of the British constitutional system. According to AV Dicey, the British jurist, this principle has three implications:
  1. The Parliament can make, amend, substitute or repeal any law. De Lolme, a British political analyst, said, ‘The British Parliament can do every thing except make a woman a man and a man a woman’.
  2. The Parliament can make constitutional laws by the same procedure as ordinary laws. In other words, there is no legal distinction between the constituent authority and the legislative authority of the British Parliament.
  3. The Parliamentary laws cannot be declared invalid by the Judiciary as being unconstitutional. In other words, there is no system of judicial review in Britain.
- ✓ The Indian Parliament, on the other hand, cannot be regarded as a sovereign body in the similar sense as there are ‘legal’ restrictions on its authority and jurisdiction. The factors that limit the sovereignty of Indian Parliament are:

### **1. Written Nature of the Constitution**

- ✓ The Constitution is the fundamental law of the land in our country. It has defined the authority and jurisdiction of all the three organs of the Union government and the nature of interrelationship between them. Hence, the Parliament has to operate within the limits prescribed by the Constitution.
- ✓ There is also a legal distinction between the legislative authority and the constituent authority of the Parliament. Moreover, to effect certain amendments to the Constitution, the ratification of half of the states is also required. In Britain, on the other hand, the Constitution is neither written nor there is anything like a fundamental law of the land.

### **2. Federal System of Government**

- ✓ India has a federal system of government with a constitutional division of powers between the Union and the states. Both have to operate within the spheres allotted to them.
- ✓ Hence, the law-making authority of the Parliament gets confined to the subjects enumerated in the Union List and Concurrent List and does not extend to the subjects enumerated in the State List (except in five abnormal circumstances and that too for a short period). Britain, on the other hand, has a unitary system of government and hence, all the powers are vested in the Centre.
- ✓ System of Judicial Review The adoption of an independent Judiciary with the power of judicial review also restricts the supremacy of our Parliament. Both the Supreme Court and high courts can declare the laws enacted by the Parliament as void and *ultra vires* (unconstitutional), if they contravene any

provision of the Constitution. On the other hand, there is no system of judicial review in Britain.

- ✓ The British Courts have to apply the Parliamentary laws to specific cases, without examining their constitutionality, legality or reasonableness.

### **3. Fundamental Rights**

- ✓ The authority of the Parliament is also restricted by the incorporation of a code of justiciable fundamental rights under Part III of the Constitution. Article 13 prohibits the State from making a law that either takes away totally or abrogates in part a fundamental right. Hence, a Parliamentary law that contravenes the fundamental rights shall be void.
- ✓ In Britain, on the other hand, there is no codification of justiciable fundamental rights in the Constitution. The British Parliament has also not made any law that lays down the fundamental rights of the citizens. However, it does not mean that the British citizens do not have rights.
- ✓ Though there is no charter guaranteeing rights, there is maximum liberty in Britain due to the existence of the Rule of Law.