

V.S. Rama Devi  
B.G. Gujar

## RAJYA SABHA AT WORK

Shumsher K. Sheriff  
*Editor*

Third Edition

[Hindi version of this Publication is also available]

RAJYA SABHA SECRETARIAT  
INDIA

© RAJYA SABHA SECRETARIAT  
**Website:** <http://parliamentofindia.nic.in>  
<http://rajyasabha.nic.in>  
**E-mail:** [rsrlib@sansad.nic.in](mailto:rsrlib@sansad.nic.in)

**First Edition: 1996**  
**Second Edition: 2006**  
**Third Edition: 2017**

**Price:** ₹ 590.00

---

Published by Secretary-General, Rajya Sabha and Printed by Jainco Art India,  
13/10, W.E.A. Saraswati Marg, Karol Bagh, New Delhi-110 005.



सभापति, राज्य सभा  
संसद भवन, नई दिल्ली  
CHAIRMAN,  
RAJYA SABHA  
PARLIAMENT HOUSE  
NEW DELHI

## FOREWORD

A legislative body functions in accordance with its rules, procedures, customs and conventions. While the Constitution lays down broad rules of functioning of the two Houses of Parliament, each of them, over the years, has evolved its own set of rules and procedures, customs and conventions for smooth transaction of its business. The process of evolution saw not only adaption of old rules, modification where needed but also addition of new rules and procedures based on our own experiences and innovations. My illustrious predecessors have immensely contributed in this process of evolution by shaping and nurturing the rules and procedures of the functioning of the Rajya Sabha. The process of strengthening of this body of rules and procedures continues and I had the good fortune to carry this legacy forward by effecting certain procedural changes for more effective management of scarce time of the House and enhancing its legislative productivity.

The success of any legislative body greatly hinges on efficiency, competence, expertise and dedication of its members. With the live telecast of the proceedings of Parliament and the proliferation and pervasiveness of social media, the performance of members inside and outside the House is under constant scrutiny and evaluation. It has, therefore, become increasingly necessary for every member to acquire necessary skills needed to become an effective parliamentarian. Comprehensive understanding of the Constitution and the rules of procedure coupled with intelligent use of the available parliamentary devices are *sina qua non* for being an effective parliamentarian. Well informed members empowered by rules of procedure can significantly contribute to the functioning of the House as they optimally use their allotted time to put forth their view points. Lack of knowledge of the procedural nuances limits the ability of the members to maintain optimal productivity.

(ii)

The rules of procedure of Rajya Sabha, its customs, conventions and practices have been brought out by the Rajya Sabha Secretariat in a series of its publications. An arduous, pioneering and laudable attempt was made in 1996 to bring out for the first time a comprehensive publication titled 'Rajya Sabha at Work' which detailed various aspects of the functioning of the Rajya Sabha and its Committees in a comprehensive manner. This publication is revised every ten years.

I am happy that the Secretary-General, Rajya Sabha has taken this initiative to bring out the revised edition of this publication. This volume has been carefully and comprehensively updated and changes made in the rules, procedures, customs and conventions since the last edition have been incorporated. It is an invaluable work of reference for Members of Parliament and endeavours to enhance their understanding of fine nuances of parliamentary rules, procedures, practices and conventions. For the Chair, it remains an important and authentic source of information concerning the functioning of the House.

I extend my appreciation to all those who have been involved in revising and updating this authoritative work on Rajya Sabha. I am sure that besides being useful for the Members of Parliament, this publication will enrich the corpus on parliamentary literature and will be of interest to those interested in studying the functioning of our parliamentary system.

NEW DELHI  
31 October, 2016



(M. HAMID ANSARI)



उप सभापति, राज्य सभा  
संसद भवन, नई दिल्ली  
DEPUTY CHAIRMAN,  
RAJYA SABHA  
PARLIAMENT HOUSE  
NEW DELHI

## INTRODUCTION

A bicameral Parliament at the national level is the defining feature of our constitutional framework of governance. Since their inception in 1952, both the Houses of Parliament, *i.e.*, Rajya Sabha and Lok Sabha have played a pivotal role as law making and deliberative bodies. Their roles in holding the Government to account have been noteworthy and admirable. Both Houses of Parliament, by their immense contributions, have been strengthening our democracy.

The Rajya Sabha represents units of the Union, *i.e.* States and upholds the character of our polity. Being the Council of States, it provides an invaluable forum to voice their interests in democratic decision making. The hallmark of the Rajya Sabha is the principle of continuity as a permanent House in our parliamentary framework.

The vision of the framers of our Constitution to establish the Rajya Sabha as a second chamber of our Parliament was meant to provide a second look and obviate hasty legislation. Besides, it aimed at drawing upon those seasoned and eminent persons who have distinguished themselves in diverse fields such as literature, science, art and social service to serve the country. The association of such persons has given greater depth to the deliberations on issues of national importance. During the span of more than six decades of its existence, the Rajya Sabha has played a significant role in nation-building. It has stood the test of time as a legislative, deliberative and oversight body in our democratic polity and emerged as a shining example of a representative body at the apex level.

The Vice-President of India is the *ex officio* Chairman of the Rajya Sabha and as such has certainly enhanced the status and dignity of this House. All the Chairmen of the Rajya Sabha have played significant roles in securing an important place for the Rajya Sabha in our parliamentary set up. They have admirably guided the deliberations in the House and

conducted its proceedings with utmost fairness and impartiality. Their rich legacy laid down great traditions for its smooth and dignified conduct.

Our present Chairman, Shri M. Hamid Ansari is a distinguished diplomat and an erudite scholar. He has the distinction of becoming the second Vice-President in the history of our Republic, after Dr. Sarvepalli Radhakrishnan to occupy this high office consecutively for two terms. He has taken important steps to enrich the proceedings of the House and enhance its image. Highlighting the importance of legislative and deliberative responsibilities of the Rajya Sabha for our polity and society, the Chairman while responding to the felicitations offered to him in the Rajya Sabha on 13<sup>th</sup> of August, 2012, stated that these ‘unavoidably also relate to public concerns in an era of rapidly changing expectations pertaining to good governance, probity in all aspects of public life, justice, inclusive growth, societal cohesion and social peace.’ Emphasising the fact that the conduct of Members in Parliament is now under greater public scrutiny, he observed that ‘the manner in which we attend to our business is watched by the citizen body with a discerning eye’. He has taken important initiatives for smooth functioning of the House and its effective legislative oversight of the executive by amending the Rules of Procedure and Conduct of Business in the Rajya Sabha, especially those rules related to Questions. To maintain the sanctity and importance of the Question Hour and to insulate it from disruptions, he rescheduled its timings from 11.00 a.m. to 12.00 noon. He has always impressed upon Members to ask short and succinct supplementaries and urged Ministers to give pointed and appropriate replies to cover maximum number of questions and also to take up questions of even absent Members. He has also ensured that the Members get regular opportunities to raise matters of recent and urgent public importance with the permission of the Chair at each sitting of the House.

The Chairman has also expressed his anguish on the issue of disruptions in the House from time to time and exhorted the Members to maintain the decorum and dignity of the House. He once observed, “The Chair appreciates the view that a political assembly works on its perception of public impulses. Normal disciplinary procedures, therefore, have their limitations. The counterpart of this approach is self-discipline and a commitment to fulfil the objectives and purposes of a legislative body”. He urged the Members to ‘desist from approaches and practices that demean the stature of the Rajya Sabha ... and make the fullest possible use of instrumentalities of accountability and discussion available to them under the Rules of Procedure’.

It should be the endeavour of all Members to preserve and uphold the rich traditions of the Council. They are expected to maintain the dignity and decorum of the House while discharging their responsibilities as Members

of Parliament. We may recall the resounding words of our first Prime Minister, Pandit Jawaharlal Nehru who said that, “The Parliament does set some kind of an example to the rest of the country. As we behave here to each other, towards our work, towards the general public, to some extent others will behave elsewhere, whether in the State Legislatures or in the many other organs of self-government that exist in the country or that are growing up, right way down to that foundation of our democracy – the Panchayats in the villages.”

I have been associated with the Rajya Sabha for more than a decade and now for the last four years I have the privilege and honour to preside over the House as the Deputy Chairman. It has been my fortune to see the functioning of this House very closely and watch Members articulating themselves passionately and forcefully on critical issues facing the country. Their indepth deliberations have impacted the Government’s policies and programmes that set the direction of the country’s progress and positively affected the lives of millions of people. The Rajya Sabha is a vibrant body which represents the diversities of our federal polity and reflects the wide spectrum of interests and ideological persuasions. However, these differences do not come in the way of Members while discharging their duties towards society and the nation. They work together with a sense of camaraderie for strengthening parliamentary democracy. There are moments of turmoil when disruptions take place causing lot of anxiety to the Presiding Officers and inviting adverse criticism in the media and the public. These are, however, expressions of a vibrant democracy.

The task of the Presiding Officer is indeed delicate as he has to ensure that the rules of the House for conducting its business are properly followed by all Members while providing them adequate opportunities to participate in deliberations of the Council. This task has become more challenging for the Presiding Officer in the context of dynamics of multiparty democracy which often creates a situation wherein one or group of political parties obtain majority in the Lower House and in the Upper House, it is the Opposition which has a dominant position on account of its better numerical strength.

Ever since its inception, several practices, conventions and precedents have evolved in the annals of Rajya Sabha. Some of these are very unique to it. It is important to be familiar with such practices as well as the formal rules of procedure that govern the functioning of the House. Members need to understand the parliamentary rules, practices, customs and conventions so that they can make optimum use of the precious time of the House while participating in its deliberations. In the performance of such important tasks, the ‘Rajya Sabha at Work’ is a very useful publication which delineates

(vi)

various aspects of the functioning of the House. This publication highlights the fact that the Rajya Sabha is a distinct entity in our democratic polity, which plays a crucial role in the affairs of the nation. I understand that the first edition of this book was brought out in the year 1996 and, thereafter, it was revised in the year 2006. I extend my heartiest congratulations to Secretary-General, Rajya Sabha for taking the initiative in updating this important publication. I also extend my compliments to all those officials of the Secretariat who have been involved in this arduous exercise. I earnestly hope that this revised third edition would be a valuable and informative reference guide to the Members and to all those who evince keen interest in the functioning of our parliamentary democracy.

NEW DELHI  
October, 2016



(PROF. P.J. KURIEN)

## PREFACE

A bold and pioneering initiative was taken in 1996 to bring out the first edition of the publication titled ‘Rajya Sabha at Work’. It elaborately and comprehensively documented the procedures and practices relating to the functioning of the Rajya Sabha since its first sitting on 13 May 1952 and encapsulated in its scope the evolution of the Rajya Sabha and its functioning over the years, the changes made in its rules of procedures and practices and other developments concerning the conduct of its proceedings. We are indebted to late Smt. V.S. Rama Devi, former Secretary-General, Rajya Sabha and Shri B.G. Gujar, former Director, Rajya Sabha Secretariat for painstakingly compiling and bringing out this noteworthy publication.

The second edition of the book published in 2006 updated and revised it by incorporating the changes that took place since its first edition. A number of developments including substantive changes in practices and procedures of the House, new rulings from the Chair, etc. have taken place since the second edition was brought out a decade ago and therefore, a need was felt to have an updated and revised edition of the book. This revised edition is intended to fulfil this need.

The Constitution in Article 87 deals with the Address by the President to both Houses of Parliament assembled together at the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session of each year. Such Address of the President reflects the policies and programmes of the Government. Rules 14 to 19 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha), *inter alia*, deal with the President’s Address, scope of discussion on the Motion of Thanks on the President’s Address and the amendments moved to such a motion. After the Address by the President, it is discussed in both the Houses of Parliament and the Prime Minister or any other Minister of the Government explains the position of the Government at the end of the discussion. Adoption of amendment to the Motion of Thanks on the President’s Address by the House, though not a usual happening, in the years 1980, 1989, 2001 and 2015 the Motion of Thanks on the President’s Address was adopted with amendments in the Rajya Sabha.

Rules and procedures of the House are intended to ensure orderly conduct of business of the House and optimal utilisation of time available at its disposal. The Presiding Officer faces a daunting task in making members scrupulously adhere to the rules of procedure and set high standards through their work and conduct. There have been increasing instances, in the recent past, of disruptions of the proceedings of the House. During 2013 and 2014 Sessions, there were continuous disruptions of the proceedings of the House, resulting in repeated adjournments and loss of its valuable time. This impacted legislative and other business. Concerns have been expressed both inside and outside the Parliament on frequent disruptions of the proceedings of the House, declining number of its sittings and perceived deterioration in the standards of debates. The Chairman, Rajya Sabha has, from time to time, also expressed concern on the issue. On 7 February 2014, the Chairman observed that the names of members who indulged in gross disorderly conduct in violation of rules and etiquette of the Rajya Sabha by entering into the Well of the House and persistently and wilfully obstructed its proceedings should be published in Parliamentary Bulletin Part-I. Yet on another occasion, the Chair viewed seriously the conduct of a member who persistently disrupted the proceedings of the House by entering into the Well of the House and shouting slogans and observed that his conduct might amount to breach of privilege of the House. The member subsequently had to tender a written apology for his conduct. These instances, among others, find mention in Chapter 9 of the book dealing with ‘Rules of Conduct and Parliamentary Etiquette’.

In a parliamentary form of Government, Parliament holds the Government to account for its acts of omission and commission. Questions raised by members are one of the oldest and most potent devices for this purpose. A fixed time is set apart for parliamentary questions in the business of the legislature in many countries. Rule 38 of the Rules of Procedure and Conduct of Business in the Rajya Sabha states that unless the Chairman of Rajya Sabha directs, the first hour of every sitting shall be available for the asking and answering of questions. In the wake of frequent disruptions, the Chairman has taken several initiatives to maintain the sanctity and efficacy of the Question Hour. During 2014, a proposal was placed before the General Purposes Committee (GPC) to shift the Question Hour from 11.00 a.m. to 12.00 noon, to which it agreed. The

proposal subsequently was also agreed to by the Rules Committee and it recommended in its Thirteenth Report: (i) amendment to rule 38 of the Rules of Procedures and Conduct of Business in the Council of States regarding change in the timings of the Question Hour; (ii) amendment in rule 51A regarding reduction in the limit of number of questions for oral answers to 15 from 20; and (iii) consequential amendment to rule 180(5) to shift the time of taking up Calling Attention to 5.00 p.m. The Report of the Committee on Rules was presented to the House on 25 November 2014. The House adopted the amendments to rules 38 and 51A as recommended by the Rules Committee. The House, however, decided that the Calling Attention shall be taken at 2.00 p.m. instead of 5.00 p.m. As a result, the first item of business to be taken at 11.00 a.m. now is the laying of papers and other business of formal nature followed by matters of recent and urgent public importance raised with the permission of the Chair (Zero Hour Submissions) subject to a maximum of 15 such matters and if the time permits, the Special Mention (for raising matters of public importance) are taken up till 12.00 noon. The time of taking up ‘the Calling Attention’ has been changed to 2.00 p.m. The Chapters on ‘Questions’, ‘Zero Hour Submissions’, ‘Calling Attention’ and ‘Arrangement of Business’ highlight these significant changes.

Earlier, if the member in whose name the question was admitted was absent on the day of its answer or did not put it when asked by the Chair to do so, the question remained unanswered on the floor of the House, thus making the executive free from any legislative scrutiny on the subject matter of the question. On the initiative of the Chairman, the relevant rule was amended to provide that if on a question being called, it is not put or the member in whose name it stands is absent, the Chair shall direct that the answer to it be given. The rules relating to the question were also amended to provide that in case more than one question of any member has been admitted for oral answer on the same day, the questions in excess of one shall be placed in the lists of questions for written answers. Further, the total number of questions to be included in the lists of questions for oral and written answer for any one day has been limited to 175 (15 questions for oral answers and 160 questions for written answers). This limit is inclusive of questions postponed from one list of questions to another for written answers and 15 questions pertaining to the States under the President’s Rule. Advances in information technology have been

utilised to cut delays and promptly making replies of Parliament questions available to the members by making use of e-mail facility. A new software, *i.e.* ‘Parliament Question Answer Publishing System’ (E-reply) has been developed which facilitates uploading of answers to questions by the concerned Ministries/Departments immediately after the Question Hour is over or questions having been treated as laid on the Table of the House. All these major developments together with the new rulings from the Chair clarifying the relevant rules have been incorporated in Chapter 17 which deals with ‘Questions’.

In the history of Indian Parliament, only 14 Private Members’ Bills have been passed by both Houses and enacted as laws. The last such Bill, the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill was enacted in 1970. The Rights of Transgender Persons Bill, 2014 was introduced in the Rajya Sabha as a Private Member’s Bill on 12 December 2014 and was passed by it on 24 April 2015. The Bill as passed by the Rajya Sabha was laid on the Table of the Lok Sabha on 29 April 2015 and is pending for consideration of that House.

In December 2011, a new Committee, namely, the Committee on Welfare of Other Backward Classes (OBCs) consisting of thirty members, twenty from Lok Sabha and ten from Rajya Sabha was constituted to consider reports of the National Commission for Backward Classes and to report to both the Houses as to the measures that should be taken by the Union Government in respect of matters within the purview of the Union Government. Besides, a Committee on Food Management in Parliament House Complex was constituted. A Joint Parliamentary Committee on Maintenance of Heritage Character and Development of Parliament House Complex was also constituted to formulate policies, guidelines and programmes on conservation, restoration, rehabilitation and maintenance works in Parliament House Complex.

Constitution of a Select Committee or Joint Committee on Bills is also prevalent for undertaking deeper scrutiny of the Bills and ensuring greater stakeholders’ participation in the legislative process. In recent years, there has been a surge in the constitution of Select Committees which function under the directions and control of the Chairman. These Committees included Select Committee on the Lokpal and Lokayuktas Bill, 2011, Select

Committee on the Repealing and Amending Bill, 2014, Select Committee on the Payment and Settlement Systems (Amendment) Bill, 2014, Select Committee on the Constitution (One Hundred and Twenty Second Amendment) Bill, 2014, Select Committee on the Real Estate (Regulation and Development) Bill, 2013, etc. All such new developments are enumerated in Chapter 25 titled ‘Committees’. Besides, the Chapter deals with the direction issued by Chairman, Rajya Sabha on 1 July 2011 wherein it was provided that the Committee on Petitions shall take up consideration of representations, letters and telegrams from various individuals, associations, etc., which are not covered under the Rules. Letters which are either anonymous or do not contain any specific request are not considered by the Committee.

The Fourth Schedule to the Constitution provides for allocation of seats in the Rajya Sabha to various States and Union Territories. In June 2014, a new State of Telangana was created by carving out of the State of Andhra Pradesh on the enactment of the Andhra Pradesh Reorganisation Act, 2014. Rajya Sabha has now representatives from twenty nine States and two Union Territories of Delhi and Puducherry. Besides, names of two States, namely, Uttaranchal and Orissa were also altered as ‘Uttarakhand’ and ‘Odisha’ as a result of the Uttaranchal (Alteration of Name) Act, 2006 and the Orissa (Alteration of Name) Act, 2011, respectively. These developments have been incorporated in Chapter 2 dealing with ‘Composition of Rajya Sabha’.

Article 102 of the Constitution provides for the disqualifications for membership of either House of Parliament. According to Article 102(1)(e), a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament if he is so disqualified by or under any law made by Parliament. The Parliament has enacted the Representation of the People Act, 1951, which, *inter alia*, provides for disqualification of membership of Parliament and State Legislatures on conviction for certain offences. The Supreme Court in its judgement dated 10 July 2013 in Writ Petition (C) 490 of 2005 and 231 of 2005 declared Section 8(4) of the Representation of the People Act, 1951 as *ultra vires* of the Constitution. As a result of the above judgement by the Apex Court, two members of Rajya Sabha were disqualified from its membership in September 2013 and April 2014. Chapter 3 which deals with ‘Membership of Rajya Sabha’ incorporates these developments.

The Secretariat of Rajya Sabha was set up pursuant to the provisions contained in Article 98 of the Constitution and functions under the overall guidance and control of the Chairman, Rajya Sabha. A Recruitment Cell for undertaking recruitment to various posts in the Rajya Sabha Secretariat was created in October 2008. Prior to this, the recruitment to different services of both the Secretariats of the Rajya Sabha and the Lok Sabha was conducted by the Joint Recruitment Cell. This has been incorporated in Chapter 27 which deals with ‘Servicing Rajya Sabha’.

As a Parliamentary outreach initiative, the Rajya Sabha Television has been set up. The Channel started its transmission on 26 August 2011 and became a full-fledged 24x7 channel on 18 December 2011. Apart from telecasting live coverage of the proceedings of Rajya Sabha during session, the RSTV presents incisive analysis of the proceedings of the House and other parliamentary events and developments. Simultaneous webcast of the channel is also available on the homepage of Rajya Sabha as well as You Tube. A Digitization and Hindi Web Updation Cell was created in Rajya Sabha Secretariat in 2009 with the mandate to digitize the edited debates of Rajya Sabha and to upload the digitized debates on the Debates Portal of Rajya Sabha and also keep the Hindi website of Rajya Sabha updated. These initiatives have also been included in Chapter 27 which deals with ‘Servicing Rajya Sabha’.

I take this opportunity to place on record my deep sense of gratitude to the Hon'ble Vice-President of India and Chairman, Rajya Sabha, Shri M. Hamid Ansari for his inspiring foreword. I am also grateful to the Hon'ble Deputy Chairman, Rajya Sabha, Prof. P.J. Kurien for writing a very valuable introduction for the book.

A monumental work of this nature has taken considerable time to update. In this effort, all officers and sections of the Rajya Sabha Secretariat have contributed. I place on record my appreciation to all of them, particularly the branches like Legislative, Table, Bill, Committee, Questions, Printing and Publications and the LARRDIS. I would also like to thank the Editorial and Translation Service for undertaking the task of translating in Hindi this voluminous publication. The Jainco Art India, New Delhi has taken particular care to elegantly print this publication.

(xiii)

I hope that this revised edition of the 'Rajya Sabha at Work' would be a useful reference book to Presiding Officers, Legislators, parliamentary officials, researchers, scholars and all others interested in the working of the Indian parliamentary system.



(SHUMSHER K. SHERIFF)  
*Secretary-General, Rajya Sabha*

NEW DELHI  
31 October, 2016

## ABBREVIATIONS

*(Only principal abbreviations used in the book are listed below)*

ADMK	Anna Dravida Munnertra Kazhagam
AGP	Asom Gana Parishad
AIADMK	All India Anna Dravida Munnetra Kazhagam
AIFB	All India Forward Bloc
AITC	All India Trinamool Congress
AIR	All India Reporter
APHLC	All Party Hill Leaders' Conference
App.	Appendix
Art./Arts.	Article/Articles of the Constitution of India
ATR	Action Taken Report
AVR	Automatic Vote Recorder
BAC	Business Advisory Committee
BALCO	Bharat Aluminum Company Limited
BHEL	Bharat Heavy Electricals Limited
BJD	Biju Janata Dal
BJP	Bharatiya Janata Party
BKD	Bharatiya Kranti Dal
BLD	Bharatiya Lok Dal
Bn. (I)/(II)	Rajya Sabha Bulletin Part I/II
BPF	Bodoland People's Front
BSNL	Bharat Sanchar Nigam Limited
BSP	Bahujan Samaj Party
C&AG	Comptroller & Auditor General of India

c.	Column (s) in the Debates
C.A. Deb.	Constituent Assembly Debates
C.S. Deb.	Council of States Debates
CBI	Central Bureau of Investigation
CCTV	Closed Circuit Television
CGHS	Central Government Health Scheme
CHOGM	Commonwealth Heads of Government Meet
CIA	Central Intelligence Agency
CO	Constitution Order
Constitution	Constitution of India
COP	Committee of Privileges
COPLOT	Committee on Papers Laid on the Table
COPU	Committee on Public Undertakings
COR	Committee on Rules
COSL	Committee on Subordinate Legislation
Coun.	Counting
CPI	Communist Party of India
CPI(M)	Communist Party of India (Marxist)
CRC	Camera Ready Copy
Cr. PC	Criminal Procedure Code
CRPF	Central Reserve Police Force
CS	Council of States
DA	Daily Allowance
Dec.	Declaration
Digest	Parliamentary Privileges—Digest of Cases (Lok Sabha Secretariat)
DMK	Dravida Munnetra Kazhagam
DPA	Department/Ministry of Parliamentary Affairs

DSP	Democratic Socialist Party
dt.	Date
Edn.	Edition
ELR	Election Law Reports
<i>et seq</i>	<i>et. sequens (sequentia)</i> (and that which follows)
<i>et. al.</i>	and others
Expln.	Explanation
Ext.	Extraordinary
f.n.	footnote
F.No.	File Number in the Rajya Sabha Secretariat; a letter at the end of the number indicates the abbreviated name of the section having the file
GATT	General Agreement on Tariffs and Trade
Gaz.	Gazette
Gaz. Ext.	Gazette Extraordinary
GNLF	Gorkha National Liberation Front
GPC	General Purposes Committee
GSLV	Geosynchronous Satellite Launch Vehicle
GSR	General Statutory Rules
Hansard	House of Commons Debates
HB	Handbook for Members
HC	High Court
HOP	House of the People (Lok Sabha)
H.P. Deb.	House of the People Debates
House	Rajya Sabha
Houses	Rajya Sabha and Lok Sabha
IB	Intelligence Bureau
<i>Ibid.</i>	<i>Ibidem</i> (in the same place)
ICC	International Cricket Council

IFC	International Financial Corporation
ILR	Indian Law Reports
INC	Indian National Congress
<i>In re</i>	In the matter of
Ind.	Independent
<i>Infra</i>	below
INLD	Indian National Lok Dal
Ins.	Inserted
ISRO	Indian Space Research Organisation
J&K	Jammu and Kashmir
J&KNC	Jammu & Kashmir National Conference
JCOP	Joint Committee on Offices of Profit
JD	Janata Dal
JD(S)	Janata Dal (Secular)
JD(U)	Janata Dal (United)
JMM	Jharkhand Mukti Morcha
JNU	Jawaharlal Nehru University
JPC	Joint Parliamentary Committee
Kaul & Shakdher	Practice and Procedure of Parliament by M.N. Kaul & S.L. Shakdher, (6 <sup>th</sup> Edition, 2009)
KC(M)	Kerala Congress (M)
KMPP	Kisan Mazdoor Praja Party
LIC	Life Insurance Corporation
LoB	List of Business
<i>Loc. cit.</i>	<i>loco citato</i> (at the place quoted)
LPT	Low Power Transmitter
LS	Lok Sabha
LS Bn. (I)/(II)	Lok Sabha Bulletin Part I/II

LS Deb.	Lok Sabha Debates
LSR	Lok Sabha Rules
MANTRA	Machine Assisted Translation Tool
May	Sir Thomas Erskine May's <i>Treatise on the Law, Privileges, Proceedings and Usage of Parliament</i> , 24 <sup>th</sup> Edition, 2011 (unless stated otherwise)
MCI	Medical Council of India
MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Scheme
MIGA	Multilateral Investment Guarantee Agency
Min.	Ministry
MISA	Maintenance of Internal Security Act
ML	Muslim League
MLA	Member of Legislative Assembly
MLC	Member of Legislative Council
mts.	Minutes of a meeting of a Committee
MP	Member of Parliament
MPLADS	Member of Parliament Local Area Development Scheme
MPP	Manipur People's Party
MTNL	Mahanagar Telephone Nigam Limited
NC	National Conference
NCP	Nationalist Congress Party
NCT	National Capital Territory
NDRF	National Disaster Response Force
NEFA	North East Frontier Agency
NIC	National Informatics Centre
NPF	Naga People's Front
No.	Number

Nom.	Nominated/Nomination
Not.	Notification
NSG	National Security Guard
O&M	Organisation and Management
OM	Office Memorandum
<i>op. cit.</i>	<i>Opere Citato</i> (in the work cited)
P.	Page(s) in the Debates/Publications
PAC	Committee on Public Accounts
PAQ	Provisionally Admitted Question
Parl. Deb.	Parliamentary Debates
PC	Petitions Committee
PD	Privileges Digest, Lok Sabha Secretariat
PDG	Parliament Duty Group
PDP	Peoples Democratic Party
PEPSU	Patiala and East Punjab States Union
PIL	Public Interest Litigation
PMK	Pattali Makkal Katchi
PSLV	Polar Satellite Launch Vehicle
PSP	Praja Socialist Party
PSUs	Public Sector Undertakings
Pt.	Part
PTI	Press Trust of India
PWP	Peasants and Workers Party
RP Act	Representation of the People Act 1950 or 1951, as the case may be
R/Rs./Rule	Rule or Rules of the Rules of Procedure and Conduct of Business in the Rajya Sabha
Re.	Regarding

RJD	Rashtriya Janata Dal
RP	Republican Party
RPI	Republican Party of India
RPI(A)	Republican Party of India (Athawale)
Rpt.	Report
RS Deb.	Rajya Sabha Debates
RSP	Revolutionary Socialist Party
RTI Act	Right to Information Act
s./ss.	Sections(s) of an Act
SAD	Shiromani Akali Dal
SC	Supreme Court
SC/ST	Scheduled Caste/Scheduled Tribe
SCA	Supreme Court Appeals
Sch.	Schedule
SCR	Supreme Court Reporter
SDF	Sikkim Democratic Front
Secretariat	Rajya Sabha Secretariat
SI	Simultaneous Interpretation
SLV	Satellite Launch Vehicle
SMOP	Sectional Manual of Office Procedure
SMS	Short Message Service
SP	Samajwadi Party
SPG	Special Protection Group
SO	Standing Orders
Soc/SP	Socialist Party
SQ	Starred Question
SRO	Statutory Regulatory Order
SS	Shiv Sena

SSP	Samjukta Socialist Party
TDP	Telugu Desam Party
UAE	United Arab Emirates
UAM	United Association of Members
UDF	United Democratic Front
UGC	University Grants Commission
UK	United Kingdom
UPG	United Parliamentary Group
UPSC	Union Public Service Commission
USQ	Unstarred Question
VHP	Vishwa Hindu Parishad
VSNL	Videsh Sanchar Nigam Limited
V./Vol.	Volume
V/vs.	Versus
w.e.f.	with effect from
W.P.	Writ Petition
W.P. (C)	Writ Petition (Civil)

## CONTENTS

	PAGE No.
<i>Foreword</i> .....	i
<i>Introduction</i> .....	iii
<i>Preface</i> .....	vii
<i>Abbreviations</i> .....	xv
<b>Chapter 1 Rajya Sabha: Evolution, Powers and Position .....</b>	<b>1</b>
<b>Chapter 2 Composition of Rajya Sabha</b>	
Constitutional provisions .....	21
Fourth Schedule as on 26 November 1949.....	22
Fourth Schedule as on 26 January 1950 .....	23
Rajya Sabha—initial constitution .....	23
Fourth Schedule as amended in 1956 .....	25
Changes in the composition .....	26
Present allocation of seats.....	27
<b>Chapter 3 Membership of Rajya Sabha</b>	
Qualifications .....	30
Disqualifications .....	31
Constitutional provisions .....	31
Expression ‘office of profit’ .....	32
Joint Committee on Offices of Profit .....	32
Statutory exceptions to office of profit.....	33
Additional statutory disqualifications .....	35
Decision on disqualification .....	37
Disqualification on ground of defection .....	37
Exception .....	38
Decision on disqualification under Tenth Schedule .....	38
Rules framed under the Tenth Schedule .....	40
Election .....	42
Single transferable vote procedure.....	48

---

	PAGE No.
Nominations .....	51
Appellation M.P. ....	53
Term of office .....	54
Vacation of seats.....	60
Salary, allowances, pension and other facilities .....	73
<b>Chapter 4 Presiding Officers of Rajya Sabha and Other Parliamentary Functionaries</b>	
Vice-President <i>ex officio</i> Chairman.....	86
Deputy Chairman .....	98
Chairman <i>pro tem</i> .....	105
Panel of Vice-Chairmen .....	106
Non-panel member presiding .....	108
No appeal against the decision of Deputy Chairman/Vice-Chairman ...	108
Chairmen of Parliamentary Committees .....	111
Leader of the House .....	113
Leader of the Opposition.....	121
Ministers .....	127
Attorney-General for India .....	134
Whips .....	137
Secretary-General .....	139
<b>Chapter 5 Relationship between the Constituents of Parliament</b>	
President and Parliament .....	154
Provisions regarding the President.....	154
Procedural restrictions in the House .....	163
Disturbances during the Address .....	165
Relations between the Houses .....	166
Communications between the Houses .....	167
Joint sitting of the Houses.....	168
Joint sittings held so far .....	169
Inter-relationship through practice and procedure .....	172
Controversies between the Houses .....	176

---

	PAGE No.
<b>Chapter 6 Sessions of Rajya Sabha</b>	
Summoning by the President .....	196
Summons to members .....	200
Extension of session .....	209
Adjournment <i>sine die</i> .....	209
Adjournment <i>sine die</i> before schedule .....	210
Prorogation and its effects .....	212
Effect of dissolution of Lok Sabha on business before Rajya Sabha ....	215
<b>Chapter 7 President's Address, Motion of Thanks and Messages</b>	
Constitutional provisions .....	222
Date and time for the Address .....	223
Ceremonies connected with the Address.....	224
Significance of the occasion .....	225
Incidents of disturbances during the Address .....	226
Contents of the Address .....	227
Separate sitting and laying a copy of the Address .....	228
Procedure for correction of errors, if any, in the Address .....	229
Discussion on the Address by Motion of Thanks .....	230
Amendments to the Motion of Thanks.....	233
Conveying the Motion of Thanks to the President .....	239
Messages of the President and communication to the House .....	240
Communications between the President and Rajya Sabha .....	241
<b>Chapter 8 Parliamentary Privileges</b>	
Nature of privilege .....	244
What is contempt .....	244
Constitutional provisions .....	245
Statutory provision .....	246
Privileges based on Rules of Procedure and precedents .....	246
Consequential powers of the House .....	246
Penal powers of the House .....	246
Freedom of speech and immunity from court proceedings .....	247

---

	PAGE No.
Questioning a member for his disclosure in the House .....	249
Right to exclude strangers .....	250
Right to control publication of proceedings .....	250
Premature publication of proceedings .....	251
Publication of expunged proceedings .....	252
Misrepresentation of proceedings .....	253
Right of the House to regulate its proceedings .....	256
Production of documents before a court .....	257
Freedom from arrest .....	259
Arrest for criminal offences or under preventive detention laws ...	260
Detained member's right to attend session .....	260
Exemption from attending as witness in a court .....	261
Immunity from service of legal process and arrest within the precincts of the House .....	262
Intimation about arrest, etc. of members .....	262
Withholding communications from a member in custody .....	265
Ill-treatment of members by police/jail authorities .....	265
Handcuffing of members .....	268
Imputing motives to members.....	268
Speeches and writings reflecting on the House, its members, etc. ...	269
Statements made in affidavits/writs .....	275
Assault, etc. on members .....	275
Intimidation of members .....	276
Power of the House to punish for breach of privilege or contempt ...	276
Punishments for breach of privilege or contempt .....	276
Disturbances from Visitors' Gallery.....	278
Making a deliberately misleading statement in the House .....	280
Cases not amounting to breach of privilege .....	282
Some typical privilege issues raised in Rajya Sabha.....	285
Breach of propriety .....	287
Procedure for dealing with questions of privilege .....	290
One House not to comment upon the proceedings of the other House .....	299

---

	PAGE No.
Reference of questions of privilege to Committee of Privileges by Chairman .....	300
Procedure for calling a member of Rajya Sabha for appearing as witness before a Committee of State Legislature .....	302
Supreme Court and matter of privilege .....	303
Legal process .....	303
Privilege jurisdiction on a foreign national .....	304
Codification of privileges .....	304
<b>Chapter 9 Rules of Conduct and Parliamentary Etiquette</b>	
General observations .....	311
Punishment for misconduct by members .....	312
Reprobation of conduct .....	313
Withdrawal from the House .....	315
Suspension .....	316
Expulsion .....	318
Customs and Conventions .....	318
Rules to be observed in the House .....	322
Rules to be observed while speaking .....	330
Allegations against members .....	336
Questions to be asked through the Chair .....	336
Irrelevance or repetition .....	337
Procedure when Chairperson rises .....	337
Members having personal interest in a matter before the House and its Committees .....	338
Code of Conduct for Members .....	340
<b>Chapter 10 Political Complexion of Rajya Sabha</b>	
Chairman's Direction .....	346
Membership of a political party under the Tenth Schedule to the Constitution .....	348
Expulsion and its effect on the status of a member .....	352
Facilities on recognition .....	355
Changing party position in Rajya Sabha .....	358

---

	PAGE No.
<b>Chapter 11 Sittings of Rajya Sabha</b>	
Fixation of sittings .....	365
Provisional Calendar of sittings .....	365
Sitting on a Saturday.....	366
Observance of holidays .....	367
Non-fixation of sittings on occasions.....	369
Cancellation of sittings .....	370
Time of commencement of a sitting.....	373
Time of commencement of sittings on some special occasions ...	375
Mode of commencement of a sitting .....	377
Quorum for a sitting .....	377
Lunch-recess .....	381
Adjournment/Suspension of a sitting for a while .....	382
Conclusion of a sitting .....	385
Adjournment for the day before scheduled time .....	386
Sitting beyond midnight .....	389
Playing of National Anthem and National Song .....	390
Adjournment <i>sine die</i> .....	391
Special sittings.....	391
First sitting of Rajya Sabha .....	392
<b>Chapter 12 Oath or Affirmation by Members</b>	
Legal provisions .....	397
Rights, etc., of a member before making oath/affirmation .....	399
Time limit for making oath/affirmation .....	400
Procedure regarding oath/affirmation .....	401
Oath/affirmation in the Chairman's Chamber.....	405
Solemnity of the occasion.....	407
<b>Chapter 13 Seating Arrangement in the Chamber</b>	
Seating capacity .....	411
Presiding Officer's Chair .....	412
General seating arrangement .....	412
Allotment of seats .....	414

---

	PAGE No.
<b>Chapter 14 Leave of Absence to Members</b>	
Constitutional and legal provision .....	423
Attendance Register .....	423
Procedure for obtaining leave of absence .....	425
Disposal of leave applications .....	428
Non-granting of leave of absence .....	429
Vacation of seat on account of absence .....	430
Absence of Deputy Chairman, Leader of the House and Ministers ...	431
Leave of absence to a member appointed as Chief Minister .....	432
Leave of absence to a member who has not made and subscribed oath/affirmation.....	432
Leave of absence to a member whose resignation is under consideration .....	433
Revocation of granted leave of absence .....	433
Payment of daily allowance during leave of absence .....	433
Supply of information regarding attendance of members .....	433
Supply of information from Attendance Register to Court of law ....	434
<b>Chapter 15 Arrangement of Business</b>	
Government business .....	436
Papers laid on the Table .....	437
Statements to correct inaccuracies .....	439
Statements in response to Calling Attention .....	440
Statements by Ministers on matters of public importance .....	440
Personal explanation .....	442
Motions for election to Committees .....	444
Motions for introduction or withdrawal of Bills .....	444
Legislative business .....	445
Motions .....	445
Resolutions.....	445
Discussions .....	446
Financial business .....	447
Time for Government business .....	448

---

	PAGE No.
Arrangement of Government business .....	448
Statement of General business in the House .....	450
Private members' business .....	454
List of business .....	458
<b>Chapter 16 Obituary and Other References</b>	
Obituary references .....	463
Tributes and homage .....	479
Felicitations, appreciation and greetings .....	480
References to Secretary-General, Rajya Sabha .....	485
Welcome to foreign parliamentary delegations .....	486
References on solemn or significant occasions .....	486
References to tragic happenings .....	488
Resolutions adopted unopposed .....	491
Good wishes to retiring members and welcome to newly elected/ nominated members .....	493
Valedictory remarks on the conclusion of the session .....	493
<b>Chapter 17 Questions</b>	
Time for questions .....	504
Non-allotment of time for questions .....	506
Question Hour during extension of session .....	508
Transfer of Question Hour due to cancellation of a sitting .....	510
Shifting of Question Hour .....	510
Notice of breach of privilege by some members regarding infringement of their rights as members of the House .....	511
Suspension of Question Hour .....	511
Extension of Question Hour .....	515
Early end of Question Hour .....	517
Point of order during Question Hour .....	518
Disposal of questions in some contingencies .....	519
Notice of questions by members .....	523
Form of notice of questions .....	526
Notice to Ministers .....	527

---

	PAGE No.
Types of questions .....	527
Limit on number of questions .....	528
Allotment of days for questions .....	530
Questions to private members .....	531
Conditions of admissibility of questions .....	531
Chairman's decision on admissibility of questions .....	541
List of questions and draw of lots .....	542
Clubbing of names of members .....	545
Consolidation of questions of same or allied subjects .....	546
Order and mode of calling and asking of questions .....	546
Taking of identical questions together .....	547
Supply of copies of answers to questions .....	549
Answers to questions by Ministers .....	550
Unsatisfactory reply to question .....	552
Ministerial responsibility during Question Hour .....	553
Correction of answers to questions .....	554
Withdrawal or postponement of questions .....	557
Transfer of questions .....	559
Questions of absent members .....	561
Absence of questioners during Question Hour .....	565
Supplementary questions .....	566
Limit on the number of supplementaries and coverage of questions during Question Hour.....	571
Use of languages other than Hindi and English during Question Hour .....	577
Advance publicity to answers to questions .....	578
Short notice questions .....	578
Half-an-hour discussions .....	581
Computerisation of Questions .....	583
Uploading of answers to questions on the Rajya Sabha Website .....	584
Link-up between answers to questions and supplementaries .....	585

---

	PAGE No.
<b>Chapter 18 Calling Attention</b>	
Absence of adjournment motion in Rajya Sabha .....	596
Old procedure of Motion for Papers .....	597
Introduction of calling attention procedure .....	598
Provisions in rule 180 .....	599
Procedure for giving notices .....	600
Admission of a notice .....	601
Non-admission of a notice .....	604
Modification of a notice and its transfer to a Minister .....	604
Priority of notices .....	607
Lapse of a notice .....	608
Intimation about an admitted notice .....	608
More than one Calling Attention on a day .....	609
Time for taking up Calling Attention .....	610
Postponement of Calling Attention .....	611
Mode of Calling the Attention.....	613
Circulation of copies of the statement in the Chamber .....	614
Statement by the Minister in response to Calling Attention .....	614
Calling Attention of an absent member .....	620
Procedure for seeking clarifications .....	620
Order of calling members for seeking clarifications .....	621
Postponement of clarifications .....	622
Time-limit for seeking clarifications .....	622
Reply to clarifications .....	622
Correcting the statements or further clarifying points .....	624
Time for conclusion of Calling Attention .....	624
Conversion of Calling Attention into discussion.....	626
Calling Attention on a <i>sub judice</i> matter.....	628
Important subjects raised through Calling Attention .....	628
<b>Chapter 19 Zero Hour Submissions</b>	
Definition .....	639
Origin .....	640

---

	PAGE No.
<i>Raison d'etre</i> of Zero Hour .....	641
Regulating Zero Hour .....	642
Views of the Business Advisory Committee .....	644
Recommendations of the Rules Committee .....	645
Current practice .....	646
Recent Developments .....	647
Government not bound to reply during the Zero Hour .....	647
Follow-up action .....	648
<b>Chapter 20 Special Mention</b>	
Genesis of the procedure .....	650
Procedure .....	652
Notices .....	652
Chairman's discretion.....	653
Number of Special Mention matters per sitting .....	655
Time for making Special Mention .....	656
Recent Developments .....	657
Mode of making Special Mention .....	657
Member to confine himself to the admitted text.....	657
No discussion on a Special Mention .....	658
Time limit for conclusion of Special Mentions .....	658
No Supplementaries on Special Mention .....	659
Special Mentions on alternate days .....	659
Entry in Bulletin Part-I .....	659
Cabinet Minister to be present in the House during Special Mention .....	659
Follow-up action on Special Mention raised .....	660
<b>Chapter 21 Legislation</b>	
Format of a Bill .....	665
Types of Bills.....	667
Requirements of a Bill .....	667
Legislative competence of the House .....	668
Three Readings of a Bill .....	671

---

	PAGE No.
Government Bills—originating in Rajya Sabha .....	672
Formulation of legislative policy .....	672
Preparation of a Bill.....	673
Choice of the House.....	673
Scrutiny of a Bill before introduction .....	674
Publication of a Bill before introduction.....	676
Circulation of copies of a Bill to be introduced .....	677
Introduction of a Bill (First Reading) .....	678
Publication and circulation of a Bill after introduction.....	681
Motions after introduction of a Bill (Second Reading) .....	681
Motion for consideration .....	682
Circulation for public opinion .....	683
Motion for reference to Select/Joint Committee .....	684
Reference to a Joint Committee by Presiding Officers .....	690
Reference to Department-related Parliamentary Standing Committee.....	690
Procedure after presentation of report of Select/Joint Committee.....	693
Procedure after presentation of report of Standing Committee ....	694
Clause-by-clause consideration .....	695
Amendments to clauses .....	695
Amendments to amending Bill.....	697
Amendments to repealing and amending Bill .....	697
Amendments to expiring laws continuance Bill .....	697
Amendments requiring President's recommendation .....	698
List of amendments .....	699
Moving, consideration and withdrawal of amendments .....	700
Passing of a Bill (Third Reading) .....	701
Correction of patent errors .....	702
Adjournment of debate on a Bill .....	703
Withdrawal of a Bill .....	703
Removal of a Bill from Register of Bills .....	706
Bills other than Money Bills returned by Lok Sabha with amendments .....	706

---

	PAGE No.
Bills originating in Lok Sabha and transmitted to Rajya Sabha .....	707
Assent to Bills .....	710
Assent to Bill .....	711
Withholding of assent .....	711
Return of a non-Money Bill for reconsideration .....	712
Money Bills and Financial Bills .....	714
Money Bills .....	714
Definition of a Money Bill .....	714
Certification of a Money Bill .....	715
Special procedure in respect of a Money Bill .....	716
Objection to introduction of a Money Bill in Rajya Sabha .....	720
Financial Bills .....	720
Financial Bills of category 'A' .....	721
Financial Bills of category 'B' .....	721
What are not Financial Bills .....	723
Objection to introduction of a Bill under article 117(1) ....	723
Reference of a Financial Bill to a Select/Joint Committee ...	724
Bills seeking to replace Ordinances .....	725
Promulgation of Ordinances .....	725
Objection in the House .....	725
Laying of an Ordinance .....	726
Bill replacing Ordinance .....	728
Private Members' Bills .....	728
Notice .....	728
Drafting .....	729
Precedence .....	729
Introduction .....	730
Motions after introduction .....	731
Recommendation of the President .....	732
Time-limit on debate .....	733
Adjournment of debate .....	733
Circulation for opinion .....	734
Register of Bills .....	734

	PAGE No.
Private Members' Bills enacted into law .....	735
Constitution Amendment Bills .....	740
Parliament's power to amend the Constitution .....	740
Salient features of article 368 .....	740
Constitution Amendment Bills introduced in Rajya Sabha ...	742
Categories of amendments .....	745
Amendment by simple majority .....	745
Amendment by special majority .....	745
Amendment by special majority and ratification by State Legislatures .....	748
<b>Chapter 22 Resolutions</b>	
Private Members' resolutions .....	761
Government resolutions .....	770
Resolutions for approving international treaties, conventions or agreements .....	771
Resolutions declaring or approving certain policies of the Government .....	771
Resolutions approving recommendations of Committees .....	772
Statutory resolutions .....	772
Resolutions under the Constitution .....	774
Resolution for disapproval of an Ordinance (article 123).....	774
Resolution for Legislation by Parliament on a State subject (article 249).....	775
Views of Sarkaria Commission on article 249 .....	777
Resolution for creation of an All-India Service (article 312) ....	778
Resolution for approval of Proclamation of Emergency (article 352).....	779
Resolution for approval of Proclamation on failure of constitutional machinery in a State (article 356) .....	780
Resolution for approval of Proclamation of Financial Emergency (article 360) .....	789
Resolutions under Acts of Parliament .....	789
Effect or force of resolutions .....	790

---

	PAGE No.
<b>Chapter 23 Motions and Short Duration Discussions</b>	
Motions .....	796
Definition and classification .....	796
General rules relating to motions .....	797
No-day-yet-named motions .....	798
Discussion on a motion .....	799
Repetition and withdrawal of a motion .....	801
Dilatory motion .....	802
Amendments .....	802
Subject-matter of a motion .....	803
Progress of motion adopted on 10 August 1978 .....	804
Motion regarding persistence of violence in Gujarat .....	808
Government motions .....	809
Statutory motions .....	810
Motion for the removal of the Judge of Supreme Court or High Court.....	811
Short duration discussions .....	815
No-day-yet-named motion and short duration discussion—difference .....	816
Conversion of notices of motion to short duration discussion .....	818
Short duration discussions on important subjects .....	819
<b>Chapter 24 Procedure in Financial Matters</b>	
The Budget .....	826
Distribution of Budget sets.....	827
Alleged leakage of Finance Bill .....	827
Alleged leakage of Budget .....	828
General discussion on Budget .....	828
Discussion on working of Ministries .....	829
Appropriation and Finance Bills .....	830
<b>Chapter 25 Committees</b>	
Committee structure in general .....	834
How Committees are generally constituted in Rajya Sabha .....	837

	PAGE No.
Individual Committees .....	839
Business Advisory Committee .....	839
Committee on Petitions .....	849
Committee of Privileges .....	856
Committee on Ethics .....	864
Committee on Subordinate Legislation .....	870
Committee on Government Assurances .....	886
Committee on Papers Laid on the Table .....	893
House Committee .....	899
Committee on Rules .....	901
General Purposes Committee .....	908
Committee on Provision of Computer Equipment to Members of Rajya Sabha .....	911
Committee on Member of Parliament Local Area Development Scheme .....	912
Select/Joint Committees on Bills .....	913
Department-related Parliamentary Standing Committees .....	929
Financial and other Committees on which Rajya Sabha is represented .....	938
Committee on Public Accounts .....	938
Committee on Public Undertakings .....	940
Railway Convention Committee .....	942
Committee on the Welfare of Scheduled Castes and Scheduled Tribes .....	943
Committee on Welfare of other Background Classes (OBCs) ..	943
Joint Committee on Offices of Profit .....	944
Library Committee .....	944
Committee on Empowerment of Women .....	945
Statutory Joint Committees .....	945
Joint Committee on Salaries and Allowances of Members of Parliament .....	945
Joint Parliamentary Committee on Official Language .....	946
<i>Ad hoc</i> Joint Committee on Judges (Inquiry) Rules, 1969 .....	946
<i>Ad hoc</i> Consultative Committees under State Legislature (Delegation of Powers) Acts .....	946

	PAGE No.
<i>Ad hoc Committees</i> .....	947
Committee constituted by Rajya Sabha .....	947
Committees appointed by the Chairman .....	947
Joint Committees appointed by motions .....	947
Joint Committees appointed by Presiding Officers .....	949
Consultative Committees .....	951
Government Committees .....	952
<b>Chapter 26 General Rules of Procedure</b>	
Notices .....	968
Recommendation of the President .....	971
Rules to be observed by members .....	972
Discussion on <i>sub judice</i> matters .....	972
Participation of a member appointed as a Minister in a State in the proceedings of the House .....	975
Disruption in proceedings of the House by members of Lok Sabha who are Ministers .....	976
Making of allegation against a person .....	976
Personal explanation .....	979
Order of speeches and the right of reply .....	983
Closure .....	984
Limitation of debate .....	985
Question for decision .....	985
Laying of papers on the Table .....	986
Laying of papers by Ministers .....	986
Laying of correspondence between Ministers .....	988
Laying of CBI report on Pondicherry Licence Case .....	989
Laying of correspondence between the President and the Prime Minister .....	990
Laying of State correspondence .....	990
Competence to lay a paper on the Table .....	991
Laying of papers by the Secretary-General .....	993
Authentication of a paper to be laid .....	994

	PAGE No.
Procedure for laying.....	994
Laying of a paper preceded by a statement .....	995
Constitutionality of a paper being laid .....	995
Papers laid on the Table considered public .....	996
Circulation of a paper laid .....	996
Re-laying of a paper .....	996
List of Statutory Orders laid during a session .....	997
Laying of sensitive notifications .....	997
Laying report of a parliamentary delegation .....	997
Custody of papers .....	998
Laying of a paper by a private member .....	999
Permission to lay a paper not granted.....	1002
Quoting from copy of a document .....	1003
Laying or quoting from secret documents (CBI Report).....	1003
Statement by Minister.....	1004
Circulation of copies of a statement to be made .....	1005
Time for making Statement and seeking clarifications .....	1006
Clarifications only on <i>suo motu</i> statement .....	1006
Regulating clarifications on a statement .....	1009
Statement on Direction from the Chair.....	1010
Statement when calling attention already admitted .....	1010
Statement regarding Bill replacing ordinance .....	1010
Division .....	1011
Operation of Division Bells .....	1013
No speeches during a division .....	1014
Discretion of the Chair not to allow a division.....	1014
Division by Automatic Vote Recorder .....	1014
Division by distribution of slips .....	1017
Division by going into the Lobbies .....	1017
Abstention not counted for ‘Present and Voting’ .....	1018
Voting by Presiding Officers.....	1019
Casting vote by Presiding Officer/Chairman of Committee ...	1019

---

	PAGE No.
<b>Points of Order .....</b>	1020
Introduction .....	1020
What is a point of order .....	1020
Provision in the Rajya Sabha rules .....	1021
How a point of order is raised.....	1021
Procedure after a point of order is raised .....	1021
Who can raise a point of order .....	1022
What is not a point of order or when a point of order should not be raised .....	1023
No point of order on Chair's ruling .....	1023
No point of order on a business not before the House.....	1024
No point of order on a point of order .....	1024
No point of order on a matter under Chairman's consideration ...	1024
No point of order to question Minister's remark .....	1024
No point of order during question hour and half-an-hour discussion .....	1025
No point of order during the division .....	1025
No point of order asking for procedural advice .....	1025
Other instances or situations .....	1025
Preparation of official proceedings.....	1027
Reporting of proceedings .....	1027
Reporting of proceedings of Committees.....	1029
Expunction of words from proceedings of the House .....	1029
Expunction and subsequent restoration .....	1033
Admission of strangers to Rajya Sabha Galleries, etc.....	1034
Suspension of rules .....	1037
Residuary powers of the Chairman .....	1038
<b>Chapter 27 Servicing Rajya Sabha</b>	
Rajya Sabha Secretariat .....	1045
Recruitment and Conditions of Service Rules .....	1046
Recruitment process .....	1050
Reservation for SC/ST/OBC candidates .....	1050
Broad organisational set-up .....	1050

---

	PAGE No.
Pay and Accounts Office.....	1062
Live telecast of Rajya Sabha proceedings .....	1063
Rajya Sabha Television (RSTV) : An interface with people .....	1064
The Budget of Rajya Sabha .....	1065
Appendix—Sessions of Rajya Sabha .....	1067
Subject-Index .....	1077

## CHAPTER–1

### **Rajya Sabha: Evolution, Powers and Position**

**O**ne of the issues which the Constituent Assembly had to consider was about having a second chamber for the Indian Parliament. The Assembly had before it not only various models of second chambers in the major Parliaments of the world, but also the working of the then existing Central Legislature set up under the Government of India Act, 1919. That Legislature consisted of two chambers, namely the Council of State with a membership of 60 and the Legislative Assembly with a membership of 145. The Council was presided over by a President appointed by the Governor-General and could continue for five years, unless earlier dissolved. As observed by the Indian Statutory Commission:

The electorate for the Council of State has been so framed as to give the Upper House a character distinct from that of the Legislative Assembly, and indeed the franchise is extremely restricted. Property qualifications have been pitched so high as to secure the representation of wealthy landowners and merchants; previous experience in a Central or Provincial Legislature, service in the chair of a Municipal Council, membership of a university Senate, and similar tests of personal standing and experience in affairs qualify for a vote. Electors are for the most part grouped in communal constituencies...Women are not entitled to vote at elections to the Council of State, or to offer themselves for election, though it is in the power of the Council of State to pass a resolution which would remove both these barriers.<sup>1</sup>

The Government of India Act, 1935, envisaged a bicameral federal legislature, the two Houses to be known as the Council of State and the House of Assembly (or the Federal Assembly). The Council of State was to have 260 members—156 representatives of the British India and 104 representatives of the Indian States. The Federal Assembly was to consist of 375 members—250 representatives of the British India and 125 representatives of the Indian States. The Council of State was to be a permanent body not subject to dissolution, but as nearly as may be one-third of its members were to retire in every third year. The life of the Assembly was for five years.<sup>2</sup> The federal scheme envisaged under the Government of India Act, 1935, however, never came into operation. Nonetheless, the scheme or machinery of Government provided in the two

enactments could not furnish a satisfactory basis for devising independent India's legislature under the new Constitution.<sup>3</sup>

The Union Constitution Committee, set up by the Constituent Assembly under the chairmanship of Shri Jawaharlal Nehru, in its report presented to the Assembly on 21 July 1947, made the following proposals in respect of the second chamber at the Centre:

- (i) The two Chambers should be named the Council of States and the House of the People; these names were indicative of the manner in which each Chamber would be constituted; Parliament of the Union would be designated "National Assembly".
- (ii) The Council of States should have 250 members.
- (iii) The units should have representation in the Council of States on the basis of one member for every whole million population upto five million, plus one member for every two additional million, subject to a maximum of twenty for a unit. This formula was recommended by a sub-committee consisting of Dr. B. R. Ambedkar, Shri Gopalaswamy Ayyangar, Shri K. M. Munshi and Sardar K. M. Panikkar.
- (iv) The representatives should be elected by the lower Houses of the legislatures of the units except for ten members to be nominated by the President in consultation with universities and scientific bodies.
- (v) The Vice-President of India would be *ex officio* Chairman of the Council; if a member was elected Vice-President he would vacate his seat.
- (vi) The two Chambers would have equal powers, except in respect of Money Bills, and deadlocks would be resolved by joint meetings.
- (vii) Money Bills would originate in the House of the People and the power of the Council of States in respect thereof would be limited to making suggestions for amendment which the House of the People could accept or reject.
- (viii) The Council of States would not be liable to dissolution, one-third of its members retiring every two years.<sup>4</sup>

The Report of the Committee was discussed in the Constituent Assembly on 28 July 1947. During the discussion, divergent views were expressed in regard to having a second chamber. For instance, Shri Mohd. Tahir was of the opinion that a second chamber was not essential.<sup>5</sup> Another member

Prof. Shibban Lal Saksena was of the view that experience in the last so many years had been that the Upper House acted as a “clog in the wheel of progress” and so it was not wise to continue the same thing in the Constitution.<sup>6</sup> On the other hand Shri Naziruddin Ahmad felt that to deal with foreign and domestic matters of extreme importance, a second chamber would be ideal. He was of the view that a second chamber would not only be an advantage but an absolute necessity. It would, in his opinion, introduce an element of sobriety and second thought and without a second chamber it would be difficult to fit in the representatives of the States in the scheme of things.<sup>7</sup> Shri Gopalaswamy Ayyangar replying to the debate observed:

The need for a second chamber has been felt practically all over the world wherever there are federations of any importance. After all, the question for us to consider is whether it performs any useful function. The most that we expect the second chamber to do is perhaps to hold dignified debates on important issues and to delay legislation which might be the outcome of passions of the moment until the passions have subsided and calm consideration could be bestowed on the measures which will be before the Legislature; and we shall take care to provide in the Constitution that whenever on any important matter, particularly matters relating to finance, there is conflict between the House of the People and the Council of States, it is the view of the House of the People that shall prevail. Therefore, what we really achieve by the existence of this second chamber is only an instrument by which we delay action which might be hastily conceived, and we also give an opportunity, perhaps, to seasoned people who may not be in the thickest of the political fray, but who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with a House of the People. That is all that is proposed in regard to this second chamber. I think, on the whole, the balance of consideration is in favour of having such a chamber and taking care to see that it does not prove a clog either to legislation or administration.<sup>8</sup>

The Assembly adopted the Report with a few changes. One change proposed was to omit the name “National Assembly” as, it was felt, it was not necessary to have too many names.<sup>9</sup> Another change was proposed by Shri Gopalaswamy Ayyangar in the form of a somewhat lengthy amendment by which it was provided that the membership of the Council of States should not exceed one-half of the membership of the House of the People. Of this, twenty-five members were to be elected by functional constituencies or panels on the lines of the Irish Constitution of 1937, as the original proposal of nomination from universities and scientific bodies (recommended by the Union Constitution Committee) appeared to him too narrow in scope. It was desirable, he felt, that persons not belonging to these bodies deserved,

on account of their connection with important aspects of the nation's activities, to be in the Council of States. The essential character of the Council of States as originally planned (as an instrument for the effective expression at the parliamentary level from the point of view of the units) would nevertheless continue to remain and an overwhelming majority of its members would be returned by units more or less on territorial basis, by the elected members of the legislature of the unit and, where such a legislature consisted of two Houses, by the elected members of the Lower House. The Union Constitution Committee was, however, authorised to further consider these matters and directed to submit its recommendations to the President of the Assembly.<sup>10</sup> That Committee accordingly reconsidered these details. Among other things, the Committee while sticking to its original population formula for representation of units, fixed the ceiling at twenty-five for a unit instead of twenty as originally recommended.

Accordingly, the First Draft of the Constitution (October 1947) provided for a Council of States with not more than half the membership of the House of the People. Twenty-five members were to be chosen from five functional panels to be drawn before first general election and thereafter, before each biennial election. These panels would contain the names of persons with knowledge or practical experience in (a) national language and culture, literature, art, education and such professional interests as might be defined by an Act of the Federal Parliament; (b) agriculture and allied interests; (c) labour; (d) industry and commerce including banking, finance, accountancy, engineering and architecture; and (e) public administration and social services. The Fourth Schedule to the Draft Constitution set out detailed provisions as to drawing up of the panels. The actual election to the Council of States from these panels was to be made by the members of the House of the People in accordance with the system of proportional representation by means of the single transferable vote. The rest of the members of the Council were to be chosen by the members of the Lower House of the units. Allocation of seats to various provinces was provided for in the Fourth Schedule.

Other provisions contained in the Draft Constitution so far as the Council of States was concerned were: the Council of States would be a permanent body not subject to dissolution with one-third of its members retiring every two years, the President was given power to summon each House at least once every year, the Vice-President of India was to be the Chairman of the Council of States, the Deputy Chairman was to be elected to perform the duties of the Chairman when the latter was absent or was performing the duties of the President, prohibition of simultaneous membership of both Houses; disqualifications for membership, privileges and immunities and salaries and allowances of members. As regards

legislative and financial procedure, etc. the Draft, *inter alia*, provided that no Bill could be submitted for the President's assent unless it had been passed in identical form by both Houses. Except in the case of Money Bills, both Houses enjoyed equal powers; and differences between them were to be settled by a majority vote in a joint sitting of the two Houses convened by the President. Money Bills were defined in the Draft and could originate only in the House of the People. The powers of the Council of States in respect of Money Bills were restricted to making suggestions for amendment. If these suggestions were not accepted by the House of the People, or if the Council of States did not return a Bill within thirty days with its suggestions for amendment, the Bill would be "deemed to have been passed by both Houses in the form in which it was passed by the House of the People" and submitted to the President for assent. The Council of States had no powers of voting of supplies or control over the expenditure from the Federal revenues.<sup>11</sup>

The Drafting Committee considered these provisions in the Draft Constitution in detail and made some changes therein. Consequent on its decision that India was to be described as a Union of States (not a Federation) the name of the Legislature of the Union was changed from "Parliament of the Federation" to "Parliament of the Union" and in other articles it was simply referred to as "Parliament". In so far as the Council of States was concerned, while the Committee retained the Council's strength at 250, it deleted the provision regarding functional panels in the light of Irish experience and instead included a provision empowering the President to nominate to the Council of States fifteen members with experience or knowledge of (a) literature, art, science and education; (b) agriculture, fisheries and allied subjects; (c) engineering and architecture; and (d) public administration and social services.

The elected members of the Council of States were described as representatives of the States and were to be elected by the elected members of each Legislature, or where the State had a bicameral Legislature, by the elected members of the Lower House. Each House of Parliament should meet at least once every six months instead of once every year as earlier provided in the Draft. Comprehensive provision was made for disqualification of Members of Parliament. The Fourth Schedule was omitted and election matters were left to be regulated by Parliamentary enactments.<sup>12</sup>

The Constituent Assembly discussed these provisions at its sittings held on 3 and 4 January, 18-20 and 23 May and 8-9 June 1949. A number of amendments were tabled at the discussion stage. Shri Loknath Mishra moved an amendment to delete the words 'Council of States' from the article 66 of the Draft Constitution as he was of the view that there was

no need to have a second chamber nor would it serve any useful purpose. He said that unless the manner of constitution of the Council of States was changed, the creation of the Upper House by itself would have no influence on the House of the People.<sup>13</sup> Opposing the amendment, Shri M. Ananthasayanam Ayyangar observed that a second House was necessary in the interests of the progress of this country where the genius of the people could have full play; whatever hasty legislation was passed by the Lower House, would be checkmated by the go-slow movement of the Upper House and while the Upper House was a permanent body, the Lower House was not.<sup>14</sup> Another amendment by Prof. K. T. Shah sought to do away with the provision relating to nominated members. It was contended by the mover of the amendment that the element of nomination, however small, militated against “the symmetry of the constitution of our legislative bodies and it fundamentally marred the principle of election.”<sup>15</sup> Prof. K. T. Shah, who suggested another amendment, was of the view that the States should be represented equally in the Council of States and each constituent State should elect five members by votes of adult citizens.<sup>16</sup>

Dr. B. R. Ambedkar moved some amendments. According to him, the number of nominated members should be reduced to twelve.<sup>17</sup> His intention was that, while a total of fifteen members would be nominated by the President, twelve of these would be, in a simpler terminology, persons with knowledge or experience in letters, art, science, or the social services; as regards the other three, he moved another amendment on 18 May 1949 that the President could from time to time nominate not more than three persons to assist in connection with any particular Bill introduced or to be introduced in either House of Parliament. Such persons so nominated in connection with any particular Bill were to have a right to speak in relation to the said Bill in either House or in committees or in joint sessions but not to vote. On further consideration, however, he withdrew this amendment, leaving the number of nominated members at twelve<sup>18</sup> (At the revision stage of the Constitution, the word ‘letters’ was substituted by the word ‘literature’). Dr. Ambedkar also moved amendments proposing that the number 250 should be the maximum membership of the Council of States and not necessarily its actual strength, as proposed in the Draft Constitution; that the allocation of seats (other than nominated seats) among States should be incorporated in the Constitution itself in a separate Schedule (Schedule 3A which was presented to the Assembly on 17 October 1949 and was accepted without debate).<sup>19</sup>

To these provisions, a number of other amendments were moved. Shri Loknath Mishra moved an amendment to fix the strength of the Council of States at 150. His view was that a large number of people did not serve any very useful purpose and the reduced number would not only serve the

purpose but save money and time.<sup>20</sup> Yet another amendment by Shri Lakshminarayan Sahu sought to delete the nomination provision altogether; in its place functional representation was suggested. He observed, “If we authorise the President to nominate twelve persons, bitter allegations of favouritism and nepotism will be levelled against him and that would not be desirable.”<sup>21</sup> Shri Naziruddin Ahmad by an amendment wanted that the number of nominated members should bear a proportion to the actual number of members of the House, and so he suggested six per cent.<sup>22</sup> Instead of saying that twelve members should be nominated by the President in the manner provided, an amendment by Sardar Hukam Singh suggested that it should be said that they be nominated from amongst categories of persons illustrated.<sup>23</sup> By another amendment Shri Loknath Mishra suggested that such persons should have real knowledge of or actual devotion to history of ancient Indian philosophy and culture, art and science and social services towards reconstruction of ‘introspective India’.<sup>24</sup> Shri Naziruddin Ahmad sought to add philosophy, religion, law, journalism, commerce and industries as further categories of persons to choose nominations from, instead of restricting the choice of the President to only four categories and excluding the others.<sup>25</sup> Shri Mohd. Tahir moved an amendment that there should not be any distinction between the elected members and nominated members so far as the election of the representatives in the Council was concerned.<sup>26</sup>

As regards the allocation of seats amongst States in accordance with a Schedule, Pandit Hirday Nath Kunzru suggested population as the basis while Prof. Shibban Lal Saksena sought to incorporate a formula with population as its basis.<sup>27</sup> An amendment by Shri Loknath Mishra suggested equal representation for every unit with a maximum of three per unit<sup>28</sup> and another amendment by Shri Lakshminarayan Sahu wanted that steps should be taken to see that, as far as possible, every unit was represented in the Council.<sup>29</sup>

A suggestion was made that where the legislature of the State had two Houses, the representatives of the States should be elected by the elected members of both the Houses; and the election should be in accordance with the system of proportional representation by means of the single transferable vote.<sup>30</sup> The Assembly approved the latter suggestion.<sup>31</sup>

Dr. Ambedkar moved a new article, *i.e.*, Draft article 68A which became article 84 in the Final Constitution to provide that in order to be qualified for being chosen as a Member of Parliament, a person should be a citizen of India, not less than 35 years of age for the Council of States and 25 years of age in the case of the House of the People. In the latter case, however, the age requirement was reduced to 30 years on an

amendment moved by Shrimati G. Durgabai. The article further provided that Parliament could prescribe by law other qualifications. The Assembly accepted the amendment.<sup>32</sup> In the course of discussion on Draft article regarding summoning of Parliament an amendment was moved by Prof. K. T. Shah that Parliament once summoned and in session should continue to remain in session during the year. Shri H. V. Kamath moved an amendment providing for a minimum of three sessions every year instead of two.<sup>33</sup> Dr. Ambedkar was of the view that sessions of Parliament would be more frequent, since the Government was responsible to the people. In fact, he apprehended that sessions of Parliament would be so frequent and so lengthy that probably the members would themselves get tired of them. The reason was that the Government would be responsible not only for good administration but also for giving effect to legislative measures necessary for implementing the party programme. He, therefore, felt that the two sessions every year proposed by him were sufficient as the minimum. There was also an amendment by Prof. K. T. Shah that if the President defaulted in convening a session of either House for more than three months, the Speaker or the Chairman, as the case may be, should have the power to do so. Dr. Ambedkar pointed out that this was impracticable. The business of the House was to be provided by the executive, and it would, therefore, serve no purpose merely to give to the Presiding Officer power to summon a meeting of the House without making proper provision for the business to be transacted.<sup>34</sup>

Shri T. T. Krishnamachari moved a new article *i.e.*, Draft article 75A which became article 92 in the Final Constitution to provide that at any sitting of the Council of States, while any resolution for the removal of the Vice-President was under consideration, the Chairman or while any resolution for the removal of the Deputy Chairman is under consideration, the Deputy Chairman, though present, should not preside over the sitting of the House. This was accepted.<sup>35</sup> At the revision stage the Drafting Committee added another clause giving the right to speak (but not to vote) to the person against whom such a resolution was directed.

The period within which the Council of States should return a Money Bill to the House of the People which was thirty days originally proposed in the Draft Constitution was, on an amendment of Shri T. T. Krishnamachari, reduced to twenty-one days and on further amendment moved by him as well as Dr. Ambedkar, it was reduced to fourteen days.<sup>36</sup>

Dr. Ambedkar moved a new article providing for a separate secretarial staff for each House of Parliament. He recalled that it was the practice in India for the executive Government to furnish secretarial help to the legislatures; and that a conflict in this matter arose in the late 1920s

between the President of the Central Legislative Assembly, Shri Vithalbhai Patel, and the Government of the day. As a result, a separate Secretariat under the control of the Presiding Officer was set up for that Assembly. But this practice was not adopted by the Provinces. Dr. Ambedkar thought that it was necessary to provide for this in the Constitution itself. The article got a general support and was adopted by the Assembly.<sup>37</sup>

As a result of his discussions with eminent jurists and constitutional experts abroad, Shri B. N. Rau, the Constitutional Adviser, came to the conclusion that it was necessary to have a provision in the Constitution enabling the Centre to undertake legislation on matters falling exclusively in the provincial sphere, whenever such a course was called for in the national interest. Accordingly, he proposed that the Federal Parliament should have power to make laws for the whole or any part of the territories of the Federation with respect to any matter enumerated in the Provincial Legislative List, if the Council of States declared, by a resolution supported by not less than two-thirds of the members present and voting, that it was necessary or expedient in the national interest that the Federal Parliament should legislate with respect to that matter. It was further provided that a resolution so adopted might be revoked by a subsequent resolution passed by a similar majority by the Council of States. The object of the amendment, Shri B. N. Rau explained, was to remove a defect similar to the one which had been disclosed in the Canadian Constitution. The requirement of a special majority of the Council of States in the proposed provision was intended as a safeguard against unwarranted encroachment on the provincial sphere. Shri B. N. Rau's suggestion was accepted by the Drafting Committee in Draft article 226 with the omission of requirement of a two-thirds majority for the revocation of the earlier resolution.

The Special Committee (a body mostly consisting of certain members of the Union Constitution Committee, Union Powers Committee and Provincial Constitution Committee), however, recommended that such a resolution should not be moved in the Council of States "without prior consultation with the Governments of the States concerned", and that the period during which Parliament was to have this power should not exceed three years and further extensions for not more than three years at a time could be made by fresh resolutions passed by the Council of States in a like manner.

The Draft article was the most criticised provision in the Chapter on Legislative Relations. Some suggested omission of the article describing it as "anti-federal" in character and out of place in a federal system. It was also contended that if the article was retained, the provision of the Constitution relating to its amendment would lose all its significance. Shri B. N. Rau pointed out that the power conferred by the article could

be exercised by the Centre only when the Council of States, which represented the units of the Union, had passed the requisite resolution by a two-thirds majority. Moreover, in view of the proposed amendment by the Drafting Committee, the Centre's power might be limited in duration. Hence, the effect of the resolution would not necessarily be as far-reaching as an amendment of the Constitution. The Drafting Committee which reconsidered the Draft article felt that it was not necessary to dilute the provision by requirement of previous consultation with the States, as recommended by the Special Committee. The Drafting Committee, therefore, dispensed with that condition.<sup>38</sup>

The Constituent Assembly considered articles relating to Legislative Relations in the Draft Constitution, on 13 June 1949. Dr. Ambedkar moved an amendment restricting the scope of the power under the Draft article 226 to one year, the resolution could be extended for a further period of one year at a time by a subsequent resolution passed by the Council of States, in the same manner as the original resolution and the law made by Parliament pursuant to such a resolution would cease to have effect after the expiry of six months after the resolution ceased to be in force.<sup>39</sup> Although these amendments took away much of the sting of the originally proposed article,<sup>40</sup> nevertheless criticism of the provision persisted. Some members felt that the amendments considerably detracted from the usefulness of the provision for the purpose for which it was intended, and the process of authorising the Parliament to enact legislation on a State matter was sought to be made unduly cumbersome. Moreover, it was also contended that no major scheme could be undertaken by the Centre on the remote chance of securing a two-thirds majority vote in the Council of States every year. On the other hand members such as Shri H. V. Pataskar and Shri O.V. Alagesan continued to regard the article as objectionable and inconsistent with the concept of a federal distribution of powers. According to them the provision was unnecessary in view of two other proposed provisions of the Draft Constitution, namely, the one under which State Legislatures could always authorise Parliament to make laws on a State subject (Draft article 229) and the second, Parliament's own independent and unfettered power to legislate with respect to any matter in the State List if a Proclamation of Emergency was in operation (Draft article 227). Again, the proposed provision enabling Parliament to invade the State List in normal times without reference to the wishes of the State Legislatures, the members felt, was certainly a "mischievous" one.

Shri T. T. Krishnamachari dealt at length with the criticism against the article. He maintained that the article as proposed to be amended by Dr. Ambedkar, was a different article from the original one and would not be capable of abuse. The mischief, he said, if at all there was any, would

be limited to a short period of one year; and this limitation would itself offer no temptation to the Centre to use the article to ‘augment’ its power; and, if it was used at all, it would be used for a valid and definitely useful purpose. He referred to the checks which the units could exercise through their representatives in the Council of States; there was enough scope for the States to tell them that such Central powers should not be renewed. Differentiating the provision of this article from the provision of Draft article 229 under which States could authorise Parliament to make laws on the State subject, he said that the latter article was intended primarily to provide for coordinate action in matters in which Provinces themselves were interested; more often than not it would happen that only two Provinces would be interested, and so it was an enabling provision for coordinating legislation by the Centre. That apart, action under that article would necessarily involve much time while the object of the Draft article 226 under consideration was to provide for situations where the Centre wanted urgent action to be taken on a State matter in circumstances when the emergency provisions need not and could not be invoked. At the end of the debate, the article, as amended, was adopted to stand as part of the Constitution.<sup>41</sup>

Draft article 282C related to the creation of All-India Services by Parliament by law if the Council of States passed the requisite resolution for the purpose by a two-thirds majority. The only criticism of this provision was that the decision to establish such services should be left with Parliament as a whole rather than the Council of States. Dr. Ambedkar, however, pointed out that the article was to some extent an invasion of the autonomy given to States to recruit their own services; obviously the only method of providing for authority to the Centre to take away the autonomy of the States was to secure the consent of two-thirds of the members of the Council of States which was set up as a body primarily to voice the opinion of the States and be the custodian of States’ interests. The Council *exhypothesi* represented the States and its resolution would be tantamount to an authority given by the States. The Assembly adopted the article.<sup>42</sup>

Thus emerged the basic provisions of the Constitution relating to the Council of States. At the revision stage of the Constitution, some changes were made in the Fourth Schedule which itself was amended from time to time as a consequence of the formation of new States and Union territories. The Constitution (Seventh Amendment) Act, 1956, made some amendments in article 80 consequent on the description of the units comprising the Indian Union as “States” and “Union territories”. A separate chapter will describe how the composition of the Rajya Sabha has undergone changes from time to time taking the elected strength of the Rajya Sabha from 205 in 1949 when the Constitution was adopted to the present strength of 233 members.

A notable change was made by announcements of the Presiding Officers of the two Houses in 1954. The nomenclatures of the Council of States and the House of the People were changed into their Indian equivalents, namely Rajya Sabha and Lok Sabha, respectively.<sup>43</sup>

On 23 June 1971, an interesting point of order was raised in respect of the Indian nomenclatures of the Houses. The Bill regarding the Maintenance of Internal Security “as passed by the Lok Sabha” was listed for consideration. A member raised a point of order with reference to article 79 which spoke of the Council of States and the House of the People and not of the Rajya Sabha and the Lok Sabha and, therefore, according to the member, the term Lok Sabha used in the List of Business for that day was unconstitutional. The Deputy Chairman ruled out the point of order observing, *inter alia*, that from the very inception these two terms — Lok Sabha and Rajya Sabha — had been in use and in all the documents these two terms appeared.<sup>44</sup>

Bicameralism has always been a vexed problem evoking an animated discussion amongst political philosophers and constitutional pundits. On the one hand, the famous constitutionalist Abbe Sieyes totally rejecting the concept of the second chamber observes, “If a second chamber dissents from the first it is mischievous; if it agrees, it’s superfluous.” On the other hand, Sir Henry Maine pleads that almost any kind of second chamber is better than none. As has been pointed out above, the Council of States was also no exception to this controversy during the discussion in the Constituent Assembly. Some members regarded the second chamber for Indian Parliament as unnecessary, while others viewed it as essential especially in the context of a federal structure. Eventually, however, the two chamber system at the union level became an integral part of our Constitution. Nonetheless, subsequently sporadic but unsuccessful attempts did take place in the Lok Sabha to seek abolition of the Rajya Sabha, which may be mentioned in this context.

Within almost two years of the constitution of the Houses of Parliament under the Constitution, a resolution was discussed in the Lok Sabha declaring that “the existence of the second chamber at the Centre is quite unnecessary” and, therefore, the Constitution should be amended for the purpose. The resolution was rejected.<sup>45</sup> Later, another resolution was moved in that House directing the Government to bring forward a Constitution Amendment Bill “to provide for the abolition of Rajya Sabha.” The resolution was withdrawn.<sup>46</sup>

In 1971, 1972 and 1975, three Constitution Amendment Bills were sought to be introduced by private members in the Lok Sabha, seeking to do away with the Council of States. The Lok Sabha Committee on Private Members’ Bills and Resolutions did not recommend introduction

of those Bills. The Committee felt that those Bills “affected a fundamental principle set out in clause (1) of article 1 of the Constitution on which the structure of the Constitution itself rested.” The Committee noted the observations of the Supreme Court in the *Keshavanand Bharati* case,<sup>47</sup> that “article 368 of the Constitution does not enable Parliament to alter the basic structure or framework of the Constitution.”<sup>48</sup>

In 1981, one more Constitution Amendment Bill was sought to be introduced by a private member in the Lok Sabha for abolition of the Council of States and the Legislative Councils in the States. That Bill was also not recommended initially for introduction by the Committee.<sup>49</sup> When the concerned Report of the Committee came up for adoption in the Lok Sabha, on an amendment adopted to the motion, the Bill was referred back to the Committee for reconsideration.<sup>50</sup> The Committee accordingly re-examined the Bill, obtained the opinion of the Ministry of Law thereon,<sup>51</sup> heard the member concerned and postponed further consideration of the Bill.<sup>52</sup> Eventually, however, the Bill was not introduced.

In contrast with this, there was an attempt in the Rajya Sabha to widen its powers in money and financial matters when the Lok Sabha was under dissolution. It also did not succeed.

On 30 August 1991, Shri Rajni Ranjan Sahu, a private member, introduced a Constitution Amendment Bill in the Rajya Sabha to insert a new article 117A in the Constitution “with a view to overcoming temporary financial difficulties which may occur as a result of the dissolution of the Lok Sabha or non-functioning of a Government.” The Bill, *inter alia*, sought to confer all the financial powers of the Lok Sabha on the Rajya Sabha when the Lok Sabha was dissolved or the dissolution of the Lok Sabha took place or in any other contingency when the financial business required to be completed under the Constitution could not be timely completed by that House. The Bill was in the context of a situation which arose in 1991, when the regular budget could not be presented and only a Vote on Account had to be taken. The Bill was discussed on 21 December 1991, 28 February 1992 and 13 March 1992 and was withdrawn.

Be that as it may, within a couple of days after the first sitting of the Rajya Sabha, on 13 May 1952, an occasion arose to spell out the task which was expected of the Rajya Sabha. Replying to felicitations offered to him on his election as the first Vice-President of India and the Chairman of the Rajya Sabha, Dr. S. Radhakrishnan observed:

There is a general impression that this House cannot make or unmake governments and, therefore, it is a superfluous body. But there are

functions, which a revising chamber can fulfil fruitfully. Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify this two chamber system, which is now an integral part of our Constitution. So, it is a test to which we are submitted. We are for the first time starting under the Parliamentary system, with a second chamber in the Centre and we should try to do everything in our power to justify to the public of this country that a second chamber is essential to prevent hasty legislation.<sup>53</sup>

From the observations (*supra*) of the Founding Fathers, Shri N. Gopalaswamy Ayyangar, Dr. B.R. Ambedkar, both of whom became members of the Rajya Sabha, and Dr. S. Radhakrishnan, who became the first Chairman of the Rajya Sabha, it is evident that they envisaged the Rajya Sabha to play an important role as a legislative chamber (revising or delaying legislation without proving a clog), federal chamber (representative of interests of States) and a deliberative chamber (holding dignified debates on important issues). The Constitution-makers conferred equal powers on both the Houses (Lok Sabha and Rajya Sabha) except in certain money/financial matters, voting of supplies (Demands for Grants), and power to “make or unmake governments.”

As a legislative body there are no restrictions on the powers of the Rajya Sabha under the Constitution to initiate Bills except Money and certain Financial Bills, in respect of which the final voice rests with the Lok Sabha. In the case of ordinary legislation, a mechanism of a joint sitting of the two Houses has been provided to resolve a legislative deadlock between them. Over the years, a number of important measures of legislation in various spheres have originated in the Rajya Sabha. Deadlocks between the two Houses have been resolved in joint sittings in 1961, in respect of disagreement on amendments to be made in the Dowry Prohibition Bill, 1959, in 1978 when the Rajya Sabha rejected the Banking Service Commission (Repeal) Bill, 1977 and again in 2002, when the Rajya Sabha rejected the Prevention of Terrorism Bill, 2002, as passed by the Lok Sabha. As a revising chamber also the Rajya Sabha has recommended changes in a number of Bills passed by the Lok Sabha which have been accepted by it.

In the matter of exercise of constituent power of Parliament, *i.e.*, power to amend the Constitution, the Rajya Sabha shares it with the Lok Sabha. A Constitution Amendment Bill can be introduced in either House of Parliament and has to be passed by each House by a special majority. In case there is any disagreement between the Lok Sabha and the Rajya Sabha, the Bill falls through; in other words there is no provision of a joint sitting to resolve a deadlock on a constitutional amendment.

In 1970, the Constitution (Twenty-fourth Amendment) Bill regarding abolition of privy purses to erstwhile rulers, as passed by the Lok Sabha, could not be passed in the Rajya Sabha for want of the requisite majority and, therefore, fell through. Again in 1989, the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills which had earlier been passed by the Lok Sabha, could not be passed in the Rajya Sabha by the requisite majority. In 1978, the Rajya Sabha introduced important amendments in the Constitution (Forty-fifth Amendment) Bill and these were accepted by the Lok Sabha to stand as part of the Constitution.

When the Government of the day was not having majority in Rajya Sabha it treaded cautiously. On 12 February 1999, a Proclamation was issued by the President under article 356 of the Constitution in relation to the State of Bihar.<sup>54</sup> The Statutory Resolution seeking approval of the Proclamation, as required under clause (3) of article 356 of the Constitution, despite being adopted by Lok Sabha,<sup>55</sup> was not brought before Rajya Sabha. Rather the Government decided to revoke the Proclamation issued by the President and a copy of the Proclamation issued by the President under clause (2) of article 356 of the Constitution on 8 March 1999, revoking the Proclamation made by the President on 12 February 1999 in relation to the State of Bihar, was laid on the Table of Rajya Sabha,<sup>56</sup> as required under clause (3) of article 356 of the Constitution.

In regard to Money and certain Financial Bills, there are restrictions on the powers of the Rajya Sabha in the matter of initiation, amendability or delaying of such Bills. They cannot be introduced in the Rajya Sabha; cannot be amended directly and cannot be delayed by more than fourteen days. However, in respect of Financial Bills without money clauses, there are no such limitations. The Rajya Sabha can play a useful role within the limited time available, by recommending amendments to the Lok Sabha in Money Bills, though it is left to the Lok Sabha to accept or not to accept those recommendations. A typical example is that of the Income-tax (Amendment) Bill, 1961, which was a Money Bill to which the Rajya Sabha recommended some amendments and they were accepted by the Lok Sabha. But the amendments recommended by the Rajya Sabha in the Finance Bills of 1977 and 1978 were not accepted by the Lok Sabha. Article 112(1) of the Constitution provides that the Annual Budget of the Union is to be laid before both the Houses of Parliament. The Budget can be discussed in the Rajya Sabha as well, although Demands for Grants can be made only to the Lok Sabha. The reports of the Comptroller and Auditor General of India relating to the accounts of the Union are also required to be laid before both the Houses. As observed by Dr. Ambedkar in the Constituent Assembly:

In the British Parliament, the House of Lords merely concurs in the financial provisions passed by the House of Commons; it has completely abrogated itself so far as finance is concerned. We are here making

---

a departure from that position and are allowing the upper chamber to have some voice in the formulation of the taxation and financial proposals which have been initiated by the Lower House. We are conferring a privilege which ordinarily the upper chamber does not possess.<sup>57</sup>

The Constitution-makers have favoured a partly elected and a partly nominated second chamber at the Centre as being best suited to the needs of the country. The number of nominated members has been limited to 12, out of the total strength of 250 members. The rest of the members are the representatives of the constituent units. At present their number is 233. To give the second chamber a federal character, provision has been made for the election of these representatives by the elected members of the Legislative Assemblies of the respective States and the members of the electoral colleges in the respective Union territories. As these electing bodies are constituted by direct election held on the basis of adult suffrage, the democratic character of the Rajya Sabha has been fully maintained. The election of representatives is held in accordance with the system of proportional representation by means of the single transferable vote. This method of election enables the Rajya Sabha to reflect in its composition, a broad spectrum of almost the entire political opinion in the country. The Constitution has not provided for equal representation of constituent units of the Indian Union in the Rajya Sabha. The allocation of seats amongst the different States and the Union territories has been made on the basis of their population and is provided in the Fourth Schedule to the Constitution.

Unlike the Lok Sabha, the Rajya Sabha is not subject to dissolution but one-third of its members retire after every second year. This ensures continuity as well as change so far as the House is concerned and retirement as well as replenishment so far as the composition is concerned. As Chairman M. Hidayatullah put it, “Like the slough which certain creatures shed”, the Rajya Sabha too... “casts off a part of itself.”<sup>58</sup> The elections to the Rajya Sabha take place biennially on the retirement of about one-third members. Such a cycle of retirement and election enable the States/Union territories to renew or replace their representation in the Rajya Sabha after every second year and incidentally, also bring about a fusion of new and old in the House which is customarily described as a House of Elders. This type of arrangement is designed to secure the representation of past as well as current opinion and help in maintaining continuity in public policy.<sup>59</sup>

As a House representing the States, the Rajya Sabha has been assigned a special role whenever it is considered necessary or expedient in the national interest that the Centre should intervene in the legislative sphere

of the States. Article 249 confers power on Parliament to legislate with respect to a matter enumerated in the State List upon the Rajya Sabha passing a resolution by two-thirds majority. In 1952 and 1986, the Rajya Sabha passed such resolutions with respect to matters mentioned in the State List in Entries 26 and 27,<sup>60</sup> and Entries 1, 2, 4, 64, 65 and 66,<sup>61</sup> respectively. Again under article 312, Parliament is empowered to create by law one or more All India Services common to the Union and the States, if the Rajya Sabha passes the requisite resolution. The Rajya Sabha passed such resolutions in 1961 and 1965, for the creation of the Indian Engineering Service, Indian Forest Service, Indian Medical and Health Service, Indian Agricultural Service and the Indian Educational Service.<sup>62</sup> The adoption of the resolution with two-thirds majority by the Rajya Sabha, it is felt, is tantamount to the giving of consent by the States for Central intervention in their legislative sphere.

There is yet another power vested in the Rajya Sabha in respect of Proclamation of Emergency (article 352), of failure of constitutional machinery in States (article 356) and of Financial Emergency (article 360). These Proclamations are required to be approved by resolutions of both the Houses of Parliament within the prescribed period. But if any such Proclamation is issued at a time when the Lok Sabha has been dissolved or dissolution of the Lok Sabha takes place during the prescribed period for approval of the Proclamation, the Rajya Sabha has been given power to pass such a resolution and the Lok Sabha can pass it later after it is reconstituted. In 1977, the Rajya Sabha had to be specially convened for a brief session to extend the President's Rule in Tamil Nadu and Nagaland<sup>63</sup> and again in 1991, for approval of the President's Rule in Haryana.<sup>64</sup> On both these occasions the Lok Sabha was under dissolution.

So far as the deliberative functions of the Rajya Sabha are concerned, the Rules of Procedure and Conduct of Business in the Rajya Sabha provide various devices and opportunities for the purpose to the Members through questions, interpellations, calling attention, special mention, etc. to raise issues of urgent public importance. Important discussions take place by means of motions and resolutions as also discussions such as Budgetary discussions, short duration discussions, discussions on working of Ministries, etc. which do not entail voting. As has been observed by the Bryce Conference, it is more useful if discussions of this nature are carried on in a House where the results of such discussions would not involve the fate of the executive Government. It may be noted that as early as in 1952, the subjects such as ecology, cleansing of rivers, population problem, conservation of water, etc. were brought up for debate in the Rajya Sabha. In the sixty years of journey of the Rajya Sabha, which it completed on 13 May 2012, the Rajya Sabha has continued with a tradition of holding animated debates and emerged as a chamber of ideas.

---

The House now discharges its functions of scrutiny of the executive actions and redressal of people's grievances through a number of committees. A landmark development concerning the evolution of Parliament pertains to the introduction of the Department-related Standing Committees in the year 1993. Preceding this decision, the matter was discussed at a joint sitting of the Committee on Rules of the Rajya Sabha and the Lok Sabha for the first time under the Chairmanship of the Chairman, Rajya Sabha on 11 March 1993 and a decision was taken to set up Department-related Parliamentary Committees on various Ministries/Departments of the Union Government. Chapter 25 will discuss this development in greater details.

In every bicameral legislature, each House should function in the sphere allotted to it under the Constitution. There can be no two views that for a smooth law making process, there ought to be the closest co-operation and harmonious relations between the two Houses. Chapter-5 will discuss in details about the relations between the Rajya Sabha and the Lok Sabha. Although occasional differences have occurred in the early years, by and large, the relationship between the two Houses has been marked by mutual forbearance, cordiality and co-operation. As observed by Shri Jawaharlal Nehru in the context of an early instance of conflict, the two Houses "are in fact part of the same structure and any lack of that spirit of cooperation and accommodation would lead to difficulties and come in the way of the proper functioning of our Constitution." This authoritative exposition of the relations between the two Houses by the first Prime Minister has served as a guide to the Houses of Parliament in their relations with each other. Respective roles of both the Houses are clearly laid down in the Constitution, Rules of Procedure and Conduct of Business of each House and the rules relating to the joint sittings of the Houses and communications between them. In addition, conventions and practices have grown in respect of a host of other matters of major and minor details. Hence their roles have been complementary and supplementary to each other.

A second chamber is generally associated with such negative attributes as undemocratic, conservative, delaying or obstructionist and secondary. None of these are, however, applicable to the Rajya Sabha. Mention has already been made as to how the democratic character of the Rajya Sabha is ensured. As already noted, the Constitution Amendment Bill relating to abolition of privy purses fell in the Rajya Sabha. However, it needs to be pointed out that it was the Rajya Sabha which had earlier unanimously passed a private member's resolution recommending this measure. Many measures in social and economic fields have been initiated in the Rajya Sabha thus disapproving the presumption that a second chamber is always conservative. So far as the role of Rajya Sabha as a delaying chamber

is concerned, the observations of Bryce Conference may be recalled that the true function of a second chamber is “to interpose so much delay (and no more) in the passing of a Bill into law as may be needed to enable the opinion of the nation to be adequately expressed upon it.” As a matter of fact there have been many instances in the Rajya Sabha when the Bills were passed expeditiously, as circumstances and situations warranted. For instance on 25 August 1984, the Rajya Sabha passed five Constitution Amendment Bills one after another in one sitting. The role of Rajya Sabha as a legislative and a debating chamber influencing Government policies amply testifies that the Rajya Sabha despite being called a second chamber, does not play a secondary role nor is it an embellishment. It would be worthwhile to recall the views of Shri S. Jaipal Reddy, an outstanding parliamentarian, when he spoke while retiring at the expiry of his term in Rajya Sabha:

“Rajya Sabha is a constitutional caravan that goes on continuously and ceaselessly unlike the other House. It does fulfil a crucial constitutional role. In our electoral system, Lok Sabha can be swept off its feet by sweeping electoral waves and consequent political vagaries. It is the Rajya Sabha, which puts a brake, many times a very healthy brake.”<sup>65</sup>

From all points of view, therefore, the Rajya Sabha has emerged as a vital functioning part of our constitutional and parliamentary apparatus. The chapters that follow attempt to bring out the various facets of the Rajya Sabha at Work.

#### NOTES AND REFERENCES

1. Maurice Gwyer & A. Appadorai, *Speeches and Documents on the Indian Constitution*, Vol. I, pp. 32-33.
2. Government of India Act, 1935, s. 18.
3. B. Shiva Rao, *Framing of India's Constitution—A Study*, pp. 418-20.
4. *Ibid.*, pp. 422-23; C.A. Deb., Vol. IV, 21.7.1947, Appendix A, pp. 716-36.
5. C.A. Deb., Vol. IV, 28.7.1947, pp. 873-74.
6. *Ibid.*, p. 875.
7. *Ibid.*, p. 876.
8. *Ibid.*
9. *Ibid.*
10. *Ibid.*, pp. 969-72.
11. B. Shiva Rao, *Framing of India's Constitution—A Study*, pp. 424-28.
12. *Ibid.*, pp. 428-31.
13. C.A. Deb., Vol. VII, 3.1.1949, pp. 1195-96.
14. *Ibid.*, p. 1198.
15. *Ibid.*, p. 1200.
16. *Ibid.*, pp. 1214-15.
17. *Ibid.*, p. 1202.
18. *Ibid.*, Vol. VIII, 18.5.1949, pp. 82-83; and 23.5.1949, p. 197.
19. *Ibid.*, Vol. VII, 3.1.1949, pp. 1202 and 1205.

- 
20. C.A. Deb., Vol. VII, 3.1.1949, pp. 1202-03.
21. *Ibid.*, pp. 1203-04.
22. *Ibid.*, p. 1204.
23. *Ibid.*, p. 1205.
24. *Ibid.*, pp. 1211-12.
25. *Ibid.*, pp. 1212-14.
26. *Ibid.*, p. 1215.
27. *Ibid.*, pp. 1206-08.
28. *Ibid.*, p. 1208.
29. *Ibid.*, p. 1209.
30. *Ibid.*, pp. 1216-18.
31. *Ibid.*, p. 1231.
32. *Ibid.*, Vol. VIII, 18.5.1949, pp. 89-94.
33. *Ibid.*, pp. 95-98.
34. *Ibid.*, pp. 105-07.
35. *Ibid.*, 19.5.1949, pp. 120-21.
36. *Ibid.*, 20.5.1949, pp. 184-85.
37. *Ibid.*, Vol. IX, 30.7.1949, pp. 2-3.
38. B. Shiva Rao, *Framing of India's Constitution—A Study*, pp. 615-26.
39. C.A. Deb., Vol. VIII, 13.6.1949, pp. 799-800.
40. *Ibid.*, p. 800 and 805.
41. *Ibid.*, pp. 800-09.
42. *Ibid.*, Vol. IX, 8.9.1949, pp. 1116-19.
43. H.P. Deb., 14.5.1954, c. 7388-89; and R.S. Deb., 23.8.1954, c. 36-37. The Constitution, continues to use the nomenclatures the Council of States and the House of the People, so also the Parliamentary enactments. However, the Delhi (Control of Building Operations) Act, 1955 (since repealed) and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 use the nomenclatures Lok Sabha and Rajya Sabha.
44. R.S. Deb., 23.6.1971, c. 77-79.
45. H.P. Deb., 18.3.1954, c. 2640-52; and 2.4.1954, c. 3974-4025.
46. L.S. Deb., 30.3.1973, c. 291-327; and 27.4.1973, c. 352-76.
47. AIR 1973 SC 1461.
48. 14 Rpt., Committee on Private Members' Bills and Resolutions (Seventh Lok Sabha) presented on 19.2.1981.
49. *Ibid.*
50. L.S. Bn. (I), 20.2.1981.
51. 15 Rpt., Committee on Private Members' Bills and Resolutions (Seventh Lok Sabha) presented on 25.2.1981.
52. 19 Rpt., Committee on Private Members' Bills and Resolutions (Seventh Lok Sabha) presented on 25.3.1981.
53. C.S. Deb., 16.5.1952, c. 43.
54. Bn. (I), 22.2.1999.
55. L.S. Deb., 25.2.1999, c. 383-476; and 26.2.1999, c. 457-65 and c. 469-626.
56. R.S. Deb., 10.3.1999, c. 218-20.
57. C.A. Deb., Vol. VIII, 20.5.1949, p. 185.
58. R.S. Deb., 23.3.1984, c. 193.
59. B. Shiva Rao, *Framing of India's Constitution—A Study*, Vol. II, p. 442.
60. C.S. Deb., 18.7.1952, c. 1481-92; and 22.7.1952, c. 1628-86.
61. R.S. Deb., 12.8.1986, c. 395 onwards and 13.8.1996, c. 183-227.
62. *Ibid.*, 6.12.1961, c. 1280-1305; and 30.3.1965, c. 5010-91.
63. *Ibid.*, 1.3.1977, c. 41-154.
64. *Ibid.*, 3.6.1991, c. 1-24; and 4.6.1991, c. 164-77.
65. *Ibid.*, 7.3.1996, c. 195.

## CHAPTER–2

### Composition of Rajya Sabha

#### **Constitutional provisions**

**P**arliament consists of the President and the two Houses—the Council of States and the House of the People.<sup>1</sup> While the two Houses continue to be recognised by these names in the Constitution, they are in actual practice known respectively as the Rajya Sabha and the Lok Sabha.

On 14 May 1954, the Speaker, Lok Sabha, announced that the House of the People would thereafter be known as Lok Sabha.<sup>2</sup> On 23 August 1954, the Chairman, Rajya Sabha, made the following announcement:

With the concurrence of the Prime Minister and the Leader of the Council, I have decided that the Council of States will be called Rajya Sabha and its Secretariat the Rajya Sabha Secretariat.<sup>3</sup>

Dr. Radha Kumud Mookerji, an eminent historian and a member, however, suggested that the Council of States should be aptly called Rashtra Sabha.<sup>4</sup>

Article 80 of the Constitution deals with composition of the Council of States. Clause 1 of this article provides that the maximum strength of the Rajya Sabha is 250 out of which 12 members are nominated by the President and 238 are representatives of the States and of the Union territories.<sup>5</sup> Article 80(3) provides that members nominated by the President shall consist of persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service.<sup>6</sup> The allocation of seats to be filled by representatives of States and the Union territories is laid down in the Fourth Schedule to the Constitution.<sup>7</sup> The representatives of each State in the Council of States are elected by the elected members of the Legislative Assemblies of the respective States in accordance with the system of proportional representation by means of the single transferable vote.<sup>8</sup> The representatives of the Union territories in the Council of States are chosen in such manner as Parliament may, by law, prescribe.<sup>9</sup>

Part IVA of the Representation of the People Act, 1950, provides for the manner of filling seats in the Rajya Sabha allocated to Union territories. Section 27A of that Act provides that for the purpose of filling any seat or

seats in the Council of States allotted to any Union territory in the Fourth Schedule to the Constitution, there shall be an electoral college for each such territory.<sup>10</sup> Prior to the enactment of the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992), the electoral college for the Union territory of Delhi consisted of the elected members of the Metropolitan Council of Delhi constituted under the Delhi Administration Act, 1966 (19 of 1966). The electoral college for the Union territory of Delhi now consists of the elected members of the Delhi Legislative Assembly constituted under the Government of National Capital Territory of Delhi Act, 1991.<sup>11</sup> The electoral college for the Union territory of Puducherry consists of the elected members of the Puducherry Legislative Assembly constituted under the Government of Union Territory Act, 1963 (20 of 1963).<sup>12</sup> The Union territories of Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh do not have any representatives in the Rajya Sabha.

#### **Fourth Schedule as on 26 November 1949**

When the Constitution was adopted in 1949, the Rajya Sabha was to consist of 217 members of which 12 members were to be nominated by the President and the remaining 205 elected to represent the States. According to the original Fourth Schedule to the Constitution, the allocation of seats was as follows:

Part A States	Part B States	Part C States	
Assam	6 Hyderabad	11 Ajmer	1
Bihar	21 Jammu and Kashmir	4 Coorg	
Bombay	17 Madhya Bharat	6 Bhopal	1
Madhya Pradesh	12 Mysore	6 Bilaspur	1
Madras	27 Patiala and East	3 Himachal Pradesh	
Orissa	9 Punjab States Union	Cooch-Behar	
Punjab	8 Rajasthan	9 Delhi	1
United Provinces	31 Saurashtra	4 Kutch	1
West Bengal	14 Travancore-Cochin	6 Manipur	1
	Vindhya Pradesh	4 Tripura	
<b>TOTAL</b>	<b>145 TOTAL</b>	<b>53 TOTAL</b>	<b>7</b>

The allocation of seats was made on the basis of the population of each State ascertained from the census figures available at the time of passing of the Constitution. In the case of States having a population of

over five millions, the number of seats allotted to each State was determined according to the formula: “One seat per million for the first five millions and one seat for every additional two millions or part thereof exceeding one million.”<sup>13</sup>

#### **Fourth Schedule as on 26 January 1950**

Article 391<sup>14</sup> read with article 392(3) of the Constitution, provided that if at any time between the passing of the Constitution and its commencement any action was taken under the provisions of the Government of India Act, 1935, which required any amendment in the Fourth Schedule, the Governor-General of the Dominion of India was empowered to make by order such amendments in the said Schedule and further, when the Fourth Schedule was so amended, any reference to that Schedule in the Constitution would be construed as a reference to such Schedule as so amended. Accordingly, the Governor-General made the Constitution (Amendment of the First and Fourth Schedules) Order, 1950, making *inter alia*, the following amendments in the Fourth Schedule:

- (a) in Part A of the Schedule, the name “United Provinces” was changed to “Uttar Pradesh”;
- (b) in Part B, entry relating to “Vindhya Pradesh” was omitted (bringing down the total under that Part from 53 to 49);
- (c) in Part C—(i) the entry relating to Cooch-Behar was omitted; (ii) the entry relating to Vindhya Pradesh was inserted (increasing the total under that Part from 7 to 10); and
- (d) the total figure at the end of the Schedule was reduced from 205 to 204.<sup>15</sup>

Thus when the Constitution came into force on 26 January 1950, the Rajya Sabha was to consist of 216 members of which 12 members were to be nominated by the President and the remaining 204 to be elected to represent the States.

#### **Rajya Sabha—initial constitution**

The Representation of the People Act, 1951 (43 of 1951) was enacted by the Provisional Parliament, in exercise of the powers under article 379 of the Constitution, for securing, *inter alia*, the due constitution of the two Houses of Parliament and the State Legislatures as also elections to them.

Article 80(4), as it then stood, provided that the elected members of the Legislative Assemblies of Part A or Part B States would elect their representatives in the Council of States; while article 80(5) empowered

Parliament to prescribe by law the manner in which Part C States were to choose their representatives in the Council of States. The Representation of the People Act, 1950 (sections 27A to 27K) created an electoral college for each Part C State for the purpose. That Act also stipulated that where there was a Legislative Assembly, the members of such Assembly constituted the electoral college. The Government of Part C States Act, 1951 (49 of 1951) provided for the constitution of Legislative Assemblies in the Part C States of Ajmer, Bhopal, Coorg, Delhi, Himachal Pradesh and Vindhya Pradesh. Members of these Legislative Assemblies therefore formed the electoral colleges for electing their representatives in the Council of States. As regards the remaining three Part C States, namely, Kutch, Manipur and Tripura, there were no Legislative Assemblies. Hence, the Act of 1950 provided constitution of electoral colleges of 30 members each elected by adult franchise from the territorial constituencies, by an Order made under section 27C of that Act, for the purpose of filling seats allocated to them in the Council of States.

Elections were held for the House of the People and various State Legislative Assemblies, etc. during December 1951 and January 1952.

On 4 March 1952, the elected members of all the Legislative Assemblies and of the electoral colleges of Kutch and Tripura were called upon to elect representatives to the Council of States. As indicated earlier, two seats were allotted to groups of States—one to the group formed by Ajmer and Coorg and the other to the second group formed by Manipur and Tripura. At the initial constitution, the seat allotted to the Ajmer-Coorg group was filled by Ajmer and to the Manipur-Tripura group by Tripura. The dates for various stages of the election to the Council of States were:

- (a) 13 March 1952—as the last date for making nominations;
- (b) 14 March 1952—as the last date for scrutiny of nominations;
- (c) 17 March 1952—as the last date for withdrawal of candidatures;
- (d) 27 March 1952—as the date for taking poll; and
- (e) 1 April 1952—date before which elections were to be completed.<sup>16</sup>

As per the time schedule mentioned above, elections were held and completed by the end of March 1952, in accordance with the system of proportional representation by means of the single transferable vote.<sup>17</sup>

The four representatives of Jammu and Kashmir were chosen by the President on the recommendation of the State Government as required by the Constitution (Application to Jammu and Kashmir) Order, 1950 (C.O. 10).

In actual practice, the State Government acted upon a unanimous resolution of the Constituent Assembly of that State in recommending the names of the persons to be chosen by the President.<sup>18</sup>

According to the terms of the Constitution (Application to Jammu and Kashmir) Order, 1954, dated 14 May 1954, all future vacancies in the Council of States arising in the State of Jammu and Kashmir were to be filled by the elected members of that Assembly. The first such election took place in November 1954.<sup>19</sup>

The declarations containing names of candidates elected to fill the seats at the elections were published under section 67 of the Representation of the People Act, 1951, on 31 March 1952. The names of members elected by the elected members of the Legislative Assemblies of Part A and Part B States, by members of the electoral colleges for Part C States, nominated members of Jammu and Kashmir and 12 members nominated by the President under article 80 of the Constitution, were published under section 71 of that Act on 3 April 1952.<sup>20</sup> Thus the Rajya Sabha was initially constituted under the Constitution on that day.

#### **Fourth Schedule as amended in 1956**

The Fourth Schedule was amended by the Andhra State Act, 1953, States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956. The Schedule, as amended, was replaced by the following Schedule in its entirety, by the Constitution (Seventh Amendment) Act, 1956.<sup>21</sup> The new allocation of seats amongst various States and Union territories was as follows:

States and Union territories	Allocation of Seats
1. Andhra Pradesh	18
2. Assam	7
3. Bihar	22
4. Bombay	27
5. Kerala	9
6. Madhya Pradesh	16
7. Madras	17
8. Mysore	12
9. Orissa	10
10. Punjab	11

States and Union territories		Allocation of Seats
11.	Rajasthan	10
12.	Uttar Pradesh	34
13.	West Bengal	16
14.	Jammu and Kashmir	4
15.	Delhi	3
16.	Himachal Pradesh	2
17.	Manipur	1
18.	Tripura	1
		<b>TOTAL</b>
		<b>220</b>

#### **Changes in the composition**

Consequent on the reorganisation of States and formation of new States, the number of elected seats in the Rajya Sabha allotted to States and Union territories has increased from time to time since 1952, as indicated below:

TABLE-I

Year		Total number of elective seats
1952	As initially provided in the Constitution.	204
1954	Increase of three seats by the Andhra State Act, 1953 (30 of 1953), s. 6.	207
1956	Increase of thirteen seats as follows:	220
	(a) one seat due to reorganisation of States under the States Reorganisation Act, 1956 (37 of 1956), s. 23.	
	(b) three seats by the Bihar and West Bengal (Transfer of Territories) Act, 1956 (40 of 1956), s. 5.	
	(c) nine seats by the Constitution (Seventh Amendment) Act, 1956, s. 3; one additional seat was given each to Assam, Orissa and Himachal Pradesh; Uttar Pradesh and Delhi were given additional three and two seats respectively; Manipur and Tripura were given one seat each instead of one seat for both previously.	

Year	Total number of elective seats	
1960	Increase of four seats – one seat to Madras by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 8 and three seats amongst Maharashtra and Gujarat by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6.	224
1964	Increase of two seats – one for Nagaland by the State of Nagaland Act, 1962 (27 of 1962), s. 6 and one for Pondicherry by the Constitution (Fourteenth Amendment) Act, 1962, s. 6.	226
1966	Increase of two seats by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 amongst Punjab, Haryana and Himachal Pradesh.	228
1972	Increase of three seats one seat each allocated to Meghalaya, Mizoram and Arunachal Pradesh by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 10.	231
1976	Increase of one seat allocated to Sikkim by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 4.	232
1987	Increase of one seat allocated to Goa by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6.	233

#### Present allocation of seats

The maximum membership of Rajya Sabha as laid down in the Constitution is 250. The present strength, however, is 245 members of whom 233 are representatives of the States and Union territories and 12 are nominated by the President. The allocation of seats to be filled by representatives of the States and Union territories as presently laid down in the Fourth Schedule to the Constitution is as follows:

TABLE-II

States	No. of Members
1. Andhra Pradesh	11 <sup>22</sup>
2. Arunachal Pradesh	1

States	No. of Members
3. Assam	7
4. Bihar	16 <sup>23</sup>
5. Chhattisgarh <sup>24</sup>	5
6. Goa	1
7. Gujarat	11
8. Haryana	5
9. Himachal Pradesh	3
10. Jammu and Kashmir	4
11. Jharkhand <sup>24</sup>	6
12. Karnataka	12
13. Kerala	9
14. Madhya Pradesh	11 <sup>23</sup>
15. Maharashtra	19
16. Manipur	1
17. Meghalaya	1
18. Mizoram	1
19. Nagaland	1
20. Odisha <sup>25</sup>	10
21. Punjab	7
22. Rajasthan	10
23. Sikkim	1
24. Tamil Nadu	18
25. Telangana <sup>26</sup>	7
26. Tripura	1
27. Uttarakhand <sup>24</sup>	3
28. Uttar Pradesh	31 <sup>23</sup>
29. West Bengal	16
<b>Union Territories</b>	
30. Delhi	3
31. Puducherry <sup>27</sup>	1
TOTAL	<b>233</b>

## NOTES AND REFERENCES

1. Art. 79.
2. H.P. Deb., 14.5.1954, c. 7388-89.
3. R.S. Deb., 23.8.1954, c. 36-37.
4. *Ibid.*
5. Art. 80(1).
6. Art. 80(3).
7. Art. 80(2).
8. Art. 80(4).
9. Art. 80(5).
10. R.P. Act, 1950, s. 27A(1).
11. *Ibid.*, s. 27A(3) as amended by s. 55 of the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992).
12. *Ibid.*, s. 27A(4).
13. B. Shiva Rao, *Framing of India's Constitution—A Study* (1968), p. 422.
14. Since repealed by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule.
15. Not. No. C.O.3, Gaz. Ext., 25.1.1950.
16. See Report on the First General Elections in India, 1951-52, Vol. I, p. 107.
17. For details regarding number of first preference votes secured by the various candidates at the Council of States elections held in 1952, see Report on the First General Elections in India, 1951-52, Vol. II, pp. 170-79.
18. Report on the First General Elections in India, 1951-52, Vol. I, p. 149.
19. *Ibid.*, p. 14.
20. Min. of Law Not. No. F. 24(4)/52-C, 31.3.1952; and F. 10(15)/52-C, 3.4.1952, Gaz. Ext. [I(i)] of that date.
21. Constitution (Seventh Amendment) Act, 1956, s. 3.
22. See, Section 12(a), Part III of the Andhra Pradesh Reorganisation Act, 2014.
23. See, Section 7 of the Bihar Reorganisation Act, 2000, section 7 of the Madhya Pradesh Reorganisation Act, 2000 and section 7 of the Uttar Pradesh Reorganisation Act, 2000.
24. Three States, namely, Chhattisgarh, Jharkhand and Uttarakhand were created by the Madhya Pradesh Reorganisation Act, 2000, the Bihar Reorganisation Act, 2000 and the Uttar Pradesh Reorganisation Act, 2000, respectively. Subsequently, the Uttarakhand (Alteration of Name) Act, 2006 altered the name of the State as "Uttarakhand".
25. The Orissa (Alteration of Name) Act, 2011 altered the name of the State as "Odisha".
26. Telangana State has been created by the Andhra Pradesh Reorganisation Act, 2014. (See, Section 3, Part II of the Act).
27. The Pondicherry (Alteration of Name) Act, 2006 altered the name of the Union Territory as "Puducherry".

## CHAPTER–3

### **Membership of Rajya Sabha**

#### **Qualifications**

**A**rticle 84 of the Constitution lays down the qualifications for membership of Parliament. They are similar for membership of both the Houses except in respect of minimum age and representation. A person to be qualified for the membership of the Rajya Sabha should possess the following qualifications:

- (a) he should be a citizen of India and make and subscribe before some person authorised in that behalf by the Election Commission an oath or affirmation according to the following form set out for the purpose in the Third Schedule to the Constitution:

I, A.B. having been nominated as a candidate to fill a seat in the Council of States, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.<sup>1</sup>

The Election Commission has authorised the following persons before whom a candidate for election to the Rajya Sabha may make and subscribe oath or affirmation:

- (i) the returning officer/assistant returning officers concerned;
- (ii) all stipendiary presidency/first class Magistrates;
- (iii) all district judges and other persons belonging to the judicial service of a State;
- (iv) the superintendent of the prison (where a candidate is confined in a prison);
- (v) the commandant of the detention camp (where the candidate is under preventive detention);
- (vi) the medical superintendent of a hospital or medical practitioner concerned (where the candidate is confined to bed or is ill);

- (vii) the diplomatic or consular representative of India or any person authorised by him (where the candidate is out of India); and
  - (viii) any other person nominated by the Election Commission on an application made to it in this behalf (where a candidate is for any other reason unable to appear or prevented from appearing before the concerned returning officer/assistant returning officer).<sup>2</sup>
- (b) he must not be less than thirty years of age (on the date of scrutiny of nomination).<sup>3</sup>
  - (c) he must possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.<sup>4</sup>

The Representation of the People Act, 1951 (43 of 1951) lays down a further qualification that a person shall not be qualified to be chosen as a representative of any State or Union territory in the Rajya Sabha unless he is an elector for a parliamentary constituency in India.<sup>5</sup> The Representation of the People Act, 1950 (43 of 1950) lays down conditions of registration in the electoral roll for a constituency, namely, a person should be not less than eighteen years of age on the qualifying date and should be ordinarily resident in a constituency.<sup>6</sup>

### **Disqualifications**

#### *Constitutional provisions*

Article 102 of the Constitution which lays down the disqualifications for membership of either House of Parliament reads as follows:

- (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—
  - (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;
  - (b) if he is of unsound mind and stands so declared by a competent court;
  - (c) if he is an undischarged insolvent;
  - (d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
  - (e) if he is so disqualified by or under any law made by Parliament.

*Explanation*—For the purposes of this clause a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.

### **Expression ‘office of profit’**

The expression ‘office of profit under the Government’ occurring in sub-clause (a) of clause (1) of the article 102 has not been defined in the Constitution or any other statute of Parliament. Its scope and ambit have, therefore, to be gathered from the pronouncements of courts and other competent authorities.<sup>7</sup>

“Although certain enactments had been passed by Parliament, keeping in view the provisions of article 102(1)(a), it was widely felt that none of the Acts met comprehensively the needs of the situation. In this background, and following presentations from Members of Parliament, Shri G. V. Mavalankar, Speaker, Lok Sabha, in consultation with the Chairman of the Rajya Sabha appointed, on 21 August 1954, a Committee on Offices of Profit under the Chairmanship of Pt. Thakur Das Bhargava to study various matters connected with disqualification of members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation should be brought before the House; and collect facts, data and make suggestions as to how the matter should be dealt with.

In pursuance of the recommendations of the Bhargava Committee, the Government introduced in the Lok Sabha the Parliament (Prevention of Disqualification) Bill on 5 December 1957. It was referred to a Joint Committee of the Houses and its Report was presented to the Lok Sabha on 10 September 1958. The Bill, as further amended and passed by Parliament, received the assent of the President on 4 April 1959.”<sup>8</sup>

### *Joint Committee on Offices of Profit*

The Joint Committee of Houses of Parliament on Offices of Profit has been set up, *inter alia*, to examine the composition and character of all Committees, membership of which may disqualify a person for being chosen as, and for being, a Member of Parliament under article 102 of the Constitution and which also examines all matters relating to ‘office of profit’. The Committee generally follows the under mentioned criteria for

determining whether an office ought or ought not to disqualify its holder for being elected or continuing as a Member of Parliament:

- (i) whether Government exercises control over the appointment and removal from the office and over the performance and functions of the office;
- (ii) whether the holder draws any remuneration other than the ‘compensatory allowance’, as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;
- (iii) whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarships, etc.; and
- (iv) whether the body in which an office is held enables the holder to wield influence or power by way of patronage.

If the reply to any of the above criteria is in the affirmative then the holder of office in question incurs disqualification.<sup>9</sup>

#### **Statutory exceptions to office of profit**

##### *(i) The Parliament (Prevention of Disqualification) Act, 1959*

Even though an office may be an office of profit, its holder is not disqualified if Parliament so declares. The Parliament (Prevention of Disqualification) Act, 1959, lays down which offices do not disqualify holders thereof from the membership of Parliament. The Act was amended in 1993, 1999, 2000, 2006 and 2013. Briefly, the Act provides that if a member/ Director of a statutory or non-statutory body/company (excluding those specified in the Schedule to the Act) is not entitled to any remuneration other than the compensatory allowance, he does not incur disqualification. Compensatory allowance has been defined as any sum of money payable to the holder of an office by way of daily allowance not exceeding the daily allowance to which a Member of Parliament is entitled under the Salary, Allowances and Pension of Members of Parliament Act, 1954, any conveyance allowance, house rent allowance or travelling allowance for recouping any expenditure incurred by him in performing the functions of that office. The Act specifically excludes offices held by (a) a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex-officio* or by name; (b) Leader of the Opposition in Parliament; (c) Deputy Chairman, Planning Commission; (d) Chief Whip/Deputy Chief Whip or Whip in Parliament or a Parliamentary Secretary; (e) Leader and Deputy Leader of a recognised party and recognised group in either House of Parliament;

(f) Chairpersons of the National Commission for Minorities, National Commission for the Scheduled Castes, National Commission for the Scheduled Tribes, National Commission for Women; (g) Member of National Cadet Corps, Territorial Army or Reserve and Auxiliary Air Force or Home Guard; (h) Sheriff of Bombay, Calcutta or Madras; (i) Chairman or Member of the Syndicate, Senate, Executive Committee, Council or Court of a University or any other body connected with a University; (j) Member of any delegation or mission sent outside India by the Government for any special purpose; (k) Chairman or Member of a Committee temporarily set up for advising the Government on a matter of public importance; (l) Chairperson of the National Advisory Council constituted by the Government of India in the Cabinet Secretariat; (m) Chairman, Deputy Chairman, Secretary or Member (by whatever name called) in any statutory or non-statutory body specified in the Table; (n) Chairperson or Trustee (by whatever name called) of any Trust, whether public or private, not being a body specified in the Schedule; (o) Chairman, President, Vice-President or Principal Secretary or Secretary of the Governing Body of any society registered under the Societies Registration Act, 1860 or under any other law relating to registration of societies, not being a body specified in the Schedule; and (p) village revenue officers collecting land revenue and getting share or commission in the collection.

It is competent for Parliament to enact such a law to remove a disqualification with retrospective effect<sup>10</sup> or to exempt any office from the disqualification at its discretion.<sup>11</sup>

*(ii) Other statutes*

Besides the offices mentioned above, specific provision by way of a declaratory clause is also made in particular enactments to the effect that offices created thereunder are deemed not to be an ‘office of profit’, for the purpose of disqualification. Some examples of such declaratory clauses are found in the following Acts:

- (a) The Coffee Act, 1942,<sup>12</sup> the Rubber Act, 1947<sup>13</sup>, the Tea Act, 1953,<sup>14</sup> Tobacco Board Act, 1975,<sup>15</sup> the Spices Board Act, 1986,<sup>16</sup> declare that the office of a member of the Board constituted under respective enactments shall not disqualify its holder for being chosen as, or for being a Member of Parliament.
- (b) The Wakf Act, 1995, declares that the holder of the office of the chairperson or member of a Wakf Board shall not be disqualified and shall be deemed never to have been disqualified, for being chosen as, or for being, a Member of Parliament.<sup>17</sup>

- 
- (c) The Press Council Act, 1978, declares that the Office of a Member of the Council set up under that Act shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.<sup>18</sup>

### **Additional statutory disqualifications**

While sub-clause (a) of article 102(1) empowers Parliament to declare that certain offices, which are offices of profit, shall not disqualify their holders for membership of Parliament, sub-clause (e) empowers Parliament to provide by law further disqualifications, *i.e.*, other than those specified in sub-clauses (a) to (d). The election law lays down certain further disqualifications. Broadly, these are –

- (i) A person convicted of an offence punishable under certain sections of the Indian Penal Code, 1860, the Protection of Civil Rights Act, 1955, the Customs Act, 1962 (s. 11), the Unlawful Activities (Prevention) Act, 1967 (ss. 10-12), the Foreign Exchange (Regulation) Act, 1973, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorist and Disruptive Activities (Prevention) Act, 1987 (s.3), the Religious Institutions (Prevention of Misuse) Act, 1988 (s. 7), the Representation of the People Act, 1951, [ss. 125, 135, 135A & 136(2)(a)], the Places of Worship (Special Provision) Act, 1991 (s. 6), the Prevention of Insults to National Honour Act, 1971 (ss. 2 & 3), is disqualified for six years from the date of conviction.<sup>19</sup>
- (ii) A person convicted and sentenced to imprisonment for not less than six months for contravention of any law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or any provision of the Dowry Prohibition Act, 1961 or the Commission of Sati (Prevention) Act, 1987, is disqualified from the date of such conviction and for a further period of six years since his release.<sup>20</sup>
- (iii) A person convicted of any offence other than the one mentioned above and sentenced to imprisonment for not less than two years is disqualified from the date of such conviction and for a further period of six years since his release.<sup>21</sup>

If the person so convicted is a Member of Parliament/Legislative Assembly/Legislative Council, the disqualification will take place with effect from the date of such conviction.<sup>22</sup> Shri Rasheed Masood, a member representing the State of Uttar Pradesh, consequent upon his conviction in a corruption case by the

Special Judge, CBI Court, was disqualified from the membership of Rajya Sabha w.e.f. 19 September 2013, *i.e.*, the date of his conviction.<sup>23</sup> Similarly, Shri Lalu Prasad and Shri Jagdish Sharma, members of Lok Sabha, consequent upon their conviction by the CBI Court were disqualified from the membership of Lok Sabha w.e.f. 30 September 2013, *i.e.*, the date of their conviction.<sup>24</sup> Shri T. M. Selvaganapathi, a member representing the State of Tamil Nadu, consequent upon his conviction in a corruption case by the Special Judge, CBI Court, was disqualified from the membership of Rajya Sabha w.e.f. 17 April 2014, *i.e.*, the date of his conviction.<sup>25</sup>

- (iv) A person found guilty of a corrupt practice by an order under the relevant provisions of the election law, is disqualified if the President so decides for such period as may be determined by him but not exceeding six years from the date of the Order.<sup>26</sup>
- (v) A person dismissed from an office under the Government of India or the Government of any State for corruption or for disloyalty is disqualified for five years from the date of dismissal.<sup>27</sup>
- (vi) A person who has, in the course of his trade or business entered into contract with the Central Government for the supply of goods or for the execution of any works undertaken by that Government is disqualified so long as the contract subsists.<sup>28</sup>
- (vii) A person who is a managing agent, manager or secretary of any company or corporation (other than a cooperative society) in the capital of which the Central Government has not less than twenty-five per cent share is disqualified so long as he is holding that office.<sup>29</sup>
- (viii) A person who has failed to lodge an account of election expenses within the time and in the manner required without any good reason or justification is disqualified for three years from the date of Election Commission's Order.<sup>30</sup>

A sitting member of the Rajya Sabha representing the State of Manipur had contested the Lok Sabha election held in 1989. The Election Commission by its Order dated 8 July 1991, issued under section 10A of the Representation of the People Act, 1951 (failure to lodge account of election expenses as a candidate for the Inner Manipur Parliamentary Constituency in the General Election to Lok Sabha, 1989) disqualified, among others, that member, for being chosen as, and for being a member of either House of Parliament or of the Legislature of a State for a period of 3 years from the date of the Order. Subsequently, the

member filed a petition under section 11 of the Act for cancellation or alternatively under section 10A for removal of the disqualification. The Commission by its Order dated 20 September 1991 rejected the petition. The member approached the High Court of Delhi against the Order of the Election Commission. The High Court by its Order dated 18 November, 1991 stayed the operation of the Election Commission's Order. Subsequently, the member withdrew the petition and the original Order of the Commission became operative.<sup>31</sup>

### **Decision on disqualification**

If any question arises whether a Member of Parliament has become subject to any of the disqualifications as also the question of disqualification of a person on ground of corrupt practice at an election to a House of Parliament, including removal or reduction of period of such disqualification, the question is referred for the decision of the President whose decision is final in the matter. However, before giving his decision on such a question, the President is required to obtain the opinion of the Election Commission and act according to such opinion. A question of disqualification of a member to be referred to the President under article 103 should be based on a post-election disqualification, *i.e.*, disqualification incurred by a member after his election to Parliament.<sup>32</sup>

### **Disqualification on ground of defection**

Clause (2) was added to article 102 by the Constitution (Fifty-second Amendment) Act, 1985. The Act also added a new Schedule (Tenth Schedule) to the Constitution setting out certain provisions as to disqualification on ground of defection. The Act came into force with effect from 1 March 1985.<sup>33</sup>

Under the Tenth Schedule, a member is disqualified for being a member of the House in the following circumstances:

- (i) if he voluntarily gives up his membership of the political party, if any, by which he was set up as a candidate for election as such member; or
- (ii) if he votes or abstains from voting in the House contrary to any direction issued by his political party or by any person or authority authorised by it in this behalf, without prior permission of the party/person/authority, and such voting or abstention has not been condoned by that party/person/authority within fifteen days from the date of voting or abstention;<sup>34</sup> or

- 
- (iii) if an elected member of the House who has not been elected as a candidate set up by a political party, joins any political party after his election;<sup>35</sup> or
  - (iv) if a nominated member joins any political party after the expiry of six months from the date on which he takes his seat (by taking oath or making affirmation);<sup>36</sup> if he is already a member of a political party on the date of his nomination, then he is deemed to belong to that party thereafter.<sup>37</sup>

### **Exception**

The disqualification on ground of defection does not apply in case of merger of a political party.<sup>38</sup> However, not less than two-thirds of the members of the legislature party concerned have to agree for such a merger.<sup>39</sup>

Where the original political party of a member of the House has merged with another political party and the member claims that he and any other member of his original political party, have become members of such other political party or of a new political party formed after such merger, he does not incur the disqualification.<sup>40</sup> In that case, from the time of such merger, such other political party or new political party or group is deemed to be his political party.<sup>41</sup> However, the merger of the original political party of the member shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the concerned legislature party have agreed to such merger.<sup>42</sup>

A member who is elected as the Deputy Chairman of the Rajya Sabha is not disqualified if he/she, by reason of the election to such office, voluntarily gives up the membership of the political party to which he/she belonged immediately before such election and thereafter does not, so long as he/she continues to be the Deputy Chairman rejoin that political party or become a member of another political party or if he/she rejoins the party after ceasing to be the Deputy Chairman.<sup>43</sup>

### **Decision on disqualification under Tenth Schedule**

If any question arises as to whether a member of the House has become subject to disqualification under the Tenth Schedule, the question is referred to the Chairman, Rajya Sabha, and his decision is final.<sup>44</sup> All proceedings in this regard are deemed to be proceedings in Parliament within the meaning of article 122 of the Constitution<sup>45</sup> and the jurisdiction of courts in respect of any matter connected with the disqualification of

a member of the House under that Schedule is barred.<sup>46</sup> However, the Supreme Court has ruled—

The Tenth Schedule does not, in providing for an additional ground for disqualification and for adjudication of disputed disqualifications, seek to create a non-justiciable constitutional area. The power to resolve such disputes vested in the Speaker or Chairman is a judicial power.

Paragraph 6(1) of the Tenth Schedule, to the extent it seeks to impart finality to the decision of the Speakers/Chairmen is valid. But the concept of statutory finality embodied in paragraph 6(1) does not detract from or abrogate judicial review under articles 136, 226 and 227 of the Constitution in so far as infirmities based on violations of constitutional mandates, *mala fide*, non-compliance with rules of natural justice and perversity, are concerned.

The deeming provision in paragraph 6(2) of the Tenth Schedule attracts an immunity analogous to that in articles, 122(1) and 212(1) of the Constitution as understood and explained in 1965(1) SCR 413 to protect the validity of proceedings from mere irregularities of procedure. The deeming provision, having regard to the word “be deemed to be proceedings in Parliament” or “proceedings in the Legislature of a State” confines the scope of the fiction accordingly.

The Speakers/Chairmen while exercising powers and discharging functions under the Tenth Schedule act as Tribunal adjudicating rights and obligations under the Tenth Schedule and their decisions in that capacity are amenable to judicial review.

In view of the limited scope of judicial review that is available on account of the finality clause in paragraph 6 and also having regard to the constitutional intent and the status of the repository of the adjudicatory power, *i.e.*, Speaker/Chairman, judicial review cannot be available at a stage prior to the making of a decision by the Speaker/Chairman and a *quia timet* action would not be permissible. Nor would interference be permissible at an interlocutory stage of the proceedings. Exception will, however, have to be made in respect of cases where disqualification or suspension is imposed during the pendency of the proceedings and such disqualification or suspension is likely to have grave, immediate and irreversible repercussions and consequences.

It is inappropriate to claim that the determinative jurisdiction of the Speaker or the Chairman in the Tenth Schedule is not a judicial power and is within the non-justiciable legislative area. The fiction in paragraph 6(2), indeed, places it in the first clause of article 122 or 212, as the case may be. The words “proceedings in Parliament” or “proceedings in the Legislature of a State” in paragraph 6(2) have their corresponding expression in articles, 122(1) and 212(1) respectively. This attracts immunity from mere irregularities of procedures. That

apart, even after 1985 when the Tenth Schedule was introduced, the Constitution did not evince any intention to invoke article 122 or 212 in the conduct or resolution of disputes as to the disqualification of members under articles 191(1) and 102(1). The very deeming provision implies that the proceedings of disqualification are, in fact, not before the House; but only before the Speaker as a specially designated authority. The decision under paragraph 6(1) is not the decision of the House, nor is it subject to the approval by the House. The decision operates independently of the House. A deeming provision cannot by its creation transcend its own power. There is, therefore, no immunity under articles 122 and 212 from judicial scrutiny of the decision of the Speaker or Chairman exercising power under paragraph 6(1) of the Tenth Schedule.<sup>47</sup>

### **Rules framed under the Tenth Schedule**

Pursuant to the Tenth Schedule<sup>48</sup> the Chairman, Rajya Sabha has framed the Members of Rajya Sabha (Disqualification on Ground of Defection) Rules, 1985.<sup>49</sup> The rules were laid on the Table of the Rajya Sabha on 16 December 1985 and came into force with effect from 18 March 1986 after having been laid on the Table of the Rajya Sabha for a total period of thirty days (4 days during the 136<sup>th</sup> Session and 26 days during the 137<sup>th</sup> Session).<sup>50</sup> They were notified in the Gazette of India Extraordinary and Rajya Sabha Bulletin dated 18 March 1986.<sup>51</sup> The main provisions of the rules are—

#### *Furnishing information and its publication*

The Leader of each legislature party is required to furnish to the Chairman a statement containing the names of members of his party and other particulars<sup>52</sup> within thirty days of the commencement of the rules or where the party is formed after such commencement within thirty days from the date of its formation.<sup>53</sup> This applies to a one-member legislature party as well.<sup>54</sup> The changes in the information already furnished,<sup>55</sup> condonation or otherwise in regard to voting contrary to direction or abstention from voting are also required to be furnished.<sup>56</sup> Every member of the House is required to furnish the required information in the prescribed form.<sup>57</sup> A summary of the information furnished by Members is required to be published in the Rajya Sabha Bulletin.<sup>58</sup>

#### *Reference of question by petition*

A reference of any question as to whether a member has become subject to disqualification under the Tenth Schedule is required to be made only by a petition to the Chairman. A petition in relation to a member may be made in writing to the Chairman by any other member. The petition should be in writing, contain concise statement of the material facts, be accompanied by copies of the documentary evidence and be duly verified.<sup>59</sup>

The Orissa High Court, Cuttack, in its judgement dated 27 September, 2012, in Writ Petition (Civil) Nos. 14868, 14869, 14870 and 14871 of 2012 (Utkal Keshari Parida Vs. Speaker, Odisha Legislative Assembly) had ruled that even a non-legislator can initiate disqualification proceedings against a legislator for deserting the party on whose ticket he was elected and joining another political party.

The Speaker, Odisha Legislative Assembly thereafter filed an appeal before the Supreme Court questioning the decision of the Orissa High Court. The Supreme Court in its judgement dated 17 January 2013 in Civil Appeal No. 469 of 2013 (Speaker, Odisha Legislative Assembly Vs. Utkal Keshari Parida) while dismissing the appeal and upholding the judgement of the Orissa High Court in its Order noted that “The Statement of Objects and Reasons of the Bill, which finally became the Constitution (52nd Amendment) Act, 1985, *inter alia*, indicated that the evil of political defection had become a matter of national concern and if it was not checked, it could very well undermine the very foundation of our democracy and the principles which sustain the same. In such event, if the provisions of the Tenth Schedule are interpreted to exclude the right of any person interested to bring to the notice of the Speaker of the House the fact that any or some of its members had incurred disqualification from the membership of the House on any of the eventualities indicated in paragraphs 2 and 4 therein, it would render the inclusion of the Tenth Schedule to the Constitution *otiose* and defeat the objects and intent of the 52nd Amendment of the Constitution.” The Court was also of the view that “Although paragraph 8 of the Tenth Schedule vests the Speaker of the House with powers to make rules for giving effect to the provisions of the Tenth Schedule, the rules framed under such powers would amount to delegated legislation which cannot override the substantive provisions of the Constitution contained in the Schedule itself.”

#### *Procedure for dealing with the question*

If the petition does not comply with the rules, it is dismissed. If it complies with the rules, it is forwarded along with its annexures to the member in relation to whom it is made as also to the leader of his legislature party (if the member belongs to any legislature party and the leader himself is not the petitioner) for comments, within the stipulated time.<sup>60</sup> After considering the comments, the Chairman either decides the question himself or refers it to the Committee of Privileges of the Rajya Sabha for making a preliminary inquiry and submitting a report to him.<sup>61</sup> The House is informed of such reference either by an announcement, if it is in session or through a Bulletin, if it is not in session.<sup>62</sup>

In a petition received in October 1989, the question was about disqualification of a member for voting contrary to the direction of his political party, on the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills [regarding Panchayati Raj and Nagarpalikas (municipal bodies)]. The petition was referred to the Committee of Privileges for a preliminary inquiry and report.<sup>63</sup> While the matter was pending before the Committee, the member as well as the petitioner retired from the membership of the Rajya Sabha. The member, however, was re-elected. A view was taken by the Chairman that the cause of action did not survive after the member, in respect of whom the petition was made, had ceased to be a member of the House. It was observed *inter alia*—

Unlike disqualification from holding office under section 8A of the Representation of the People Act, 1951, on the ground of corrupt practice, which could extend to a period of six years, the disqualification under the Anti-defection Law does not operate beyond the term of the member of the House. In other words, the disqualification under the Anti-defection Law is instant and does not survive after a member ceases to be a member of the House. In view of the above, the petition has become infructuous. Moreover, even if the Committee were to embark upon its inquiry into the matter, it would have no effect since the member had already retired. It would be an exercise in futility.

The Chairman, therefore, directed that the Committee need not proceed with the reference and it should be deemed to have become infructuous by change of circumstances.<sup>64</sup>

After the receipt of the Report, the Chairman proceeds to determine the question in the same manner as he determines any question of breach of privilege of the House by a member. Before coming to any finding that a member has become subject to disqualification under the Tenth Schedule, the Committee and the Chairman have to give that member a reasonable opportunity to represent his case and to be heard in person.<sup>65</sup>

Thereafter, the Chairman by an order in writing either dismisses the petition or declares that the member has become subject to disqualification and causes copies of the order to be delivered or forwarded to the petitioner, the concerned member and the leader of the legislature party, if any. If the order declares a member disqualified then it is also reported to the House, published in the Bulletin Part-II, notified in the Gazette and forwarded to the Election Commission and the Central Government.<sup>66</sup>

## **Election**

### *General procedure*

The representatives of each State and of the two Union territories in the Rajya Sabha are elected by the elected members of the Legislative

Assembly of the State and by the members of the electoral college for that territory, as the case may be, in accordance with the system of proportional representation by means of the single transferable vote.<sup>67</sup> Votes are given by open ballot.<sup>68</sup> As already stated,<sup>69</sup> the electoral college for the National Capital Territory of Delhi consists of the elected members of the Legislative Assembly of Delhi, and that for Puducherry consists of the elected members of the Puducherry Legislative Assembly. If a person who is a member of an electoral college becomes subject to any disqualification for membership of Parliament under any law relating to corrupt and illegal practice and other offence in connection with elections to Parliament, he ceases, thereupon, to be such member of the electoral college.<sup>70</sup> No election by the members of an electoral college can be called in question on the ground merely of the existence of any vacancy in the membership of such college.<sup>71</sup>

The election held every second year to elect new members to replace those retiring is called ‘Biennial Election’. The election held to fill a vacancy arising otherwise than by retirement of a member on the expiration of his term of office is called ‘Bye-election’.

For the purpose of filling the seats of members of the Rajya Sabha retiring on the expiration of their term of office, the President, by one or more notifications published in the Gazette of India on such date or dates as may be recommended by the Election Commission, calls upon the elected members of the Legislative Assembly of each State or members of the electoral college of each Union territory as the case may be, to elect members of the Rajya Sabha in accordance with the Representation of the People Act, 1951 and the rules and orders made thereunder. No such notification can be issued more than three months prior to the date on which the term of office of the retiring member is due to expire.<sup>72</sup> For conducting an election to fill a seat or seats in the Rajya Sabha, the Election Commission, in consultation with the Government of the State appoints a returning officer/assistant returning officer. Generally, the Secretaries/officials of the State Legislatures are appointed as returning officer/assistant returning officer for election to the Rajya Sabha.

The Supreme Court had an occasion to deal with the appointment of a person who worked as an officer of the Legislature of a State as the returning officer for election to the Rajya Sabha. The Court observed:

Even though he belongs under article 187 of the Constitution to the staff of the State Legislature, he is still an officer of Government in the broad sense in which the expression ‘Government’ is used in article 102(1)(a) and article 191(1)(a) of the Constitution. If the expression ‘Government’ used here is construed as meaning the Executive Government only, then it would defeat the very purpose of these provisions of the Constitution. Similarly, he has to be treated as an officer of Government for purposes of section 21 of the Act

(Representation of the People Act) also qualified for being appointed as the returning officer for an election held under the Act. It is not disputed that after the commencement of the Constitution, the Secretaries of the State Legislatures almost as a matter of rule are being appointed as returning officers for election to the Rajya Sabha... and Parliament has not thought it fit to amend suitably section 21 of the Act expressly including the officers of the State Legislatures amongst the persons qualified to be appointed as returning officer even though it has amended that section once by specifically including officers of local authorities. Parliament all along has treated the Secretaries of the State Legislatures as officers of Government for purposes of section 21 and has found it convenient to do so having regard to the nature of the work to be carried out by them... We are of the view that the work 'Government' in article 102(1)(a) and in article 191(1)(a) of the Constitution and the word 'Government' in the expression 'an officer of Government' in section 21 of the Act should be interpreted liberally so as to include within its scope the Legislature, the Executive and the Judiciary.<sup>73</sup>

The returning officer with the previous approval of the Election Commission fixes the place at which the poll is to be taken for such election and notifies the place so fixed. The returning officer presides over such election at the place so fixed and appoints polling officer(s) to assist him.<sup>74</sup>

As soon as a notification as mentioned above, is issued, the Election Commission, by a notification in the Gazette appoints:

- (a) the last date for making nominations, which is the seventh day after the publication of the first mentioned notification; if that day is a public holiday, the next succeeding day, which is not a public holiday;
- (b) the date for the scrutiny of nominations, which is the day immediately following the last date for making nominations; if that day is a public holiday, the next succeeding day which is not a public holiday;
- (c) the last day for the withdrawal of candidatures, which is the second day after the date for the scrutiny of nominations; if that day is a public holiday, the next succeeding day which is not a public holiday;
- (d) the date(s) on which a poll shall, if necessary be taken, which or the first of which is a date not earlier than the seventh day after the last date for the withdrawal of candidatures; and
- (e) the date before which the election is to be completed.<sup>75</sup>

Upon the issue of the above-mentioned notification, the returning officer, by a public notice, invites nominations of candidate for such election and also specifies the place at which nomination papers are to be delivered.<sup>76</sup> Any person may be nominated as a candidate if he is qualified to be chosen to fill the seat under the provisions of the Constitution and the R.P. Act, 1951 or the Government of Union Territories Act, 1963, as the case may be.<sup>77</sup>

On or before the date appointed as above (except on a public holiday), a candidate has, either in person or by his proposer, between 11.00 a.m. and 3.00 p.m., to deliver to the returning officer, a nomination paper, completed in Form 2C appended to the Conduct of Elections Rules, 1961. The Form is required to be signed by the candidates and by ten per cent of the elected members of the Legislative Assembly of a State or of the members of the electoral college of a Union territory, as the case may be, or ten members of concerned, whichever is less, as proposers provided that a person shall not be nominated as a candidate for filling more than two seats.<sup>78</sup> If, as a result of the calculation of this percentage, the number of members arrived at is a fraction which is more than one-half, it is to be counted as one, and if it is less than one-half it is to be ignored.<sup>79</sup> The electoral roll for the Rajya Sabha elections is the list of elected members of the Legislative Assembly of the State—members of the electoral college, maintained by the returning officer in the prescribed form.<sup>80</sup>

The Supreme Court had an occasion to consider a question whether the making of oath/affirmation is a condition precedent for being eligible to act as a proposer of a valid nomination for election to the Rajya Sabha. The Court held that an elected member who has not taken oath but whose name appears in the notification published under section 73 of the Representation of the People Act, 1951 can take part in all non-legislative activities of an elected member. The right of voting at an election to the Rajya Sabha can also be exercised by him. As observed by the Court:

The rule contained in article 193 of the Constitution... is that a member elected to a Legislative Assembly cannot sit and vote in the House before making oath or affirmation. The words 'sitting and voting' in article 193 of the Constitution imply the summoning of the House under article 174 of the Constitution by the Governor to meet at such time and place as he thinks fit and the holding of the meeting of the House pursuant to the said summons or an adjourned meeting. An elected member incurs the penalty for contravening article 193 of the Constitution only when he sits and votes at such meeting of the House. Invariably there is an interval of time between the constitution of a House after a general election as provided by section 73 of the Act and the summoning of the first meeting of the House. During that interval an elected member of the Assembly whose name appears in

the notification issued under section 73 of the Act is entitled to all the privileges, salaries and allowances of a member of the Legislative Assembly, one of them being the right to function as an elector in an election held for filling a seat in the Rajya Sabha. That is the effect of section 73 of the Act which says that on the publication of notification under it the House shall be deemed to have been constituted. The election in question does not form a part of the legislative proceedings of the House carried on at its meeting. Nor the vote cast at such an election is a vote given in the 'House on any issue arising before the House. The Speaker has no control over the election ... All the steps taken in the course of the election thus fall outside the proceedings that take place at a meeting of the House.<sup>81</sup>

As already stated a candidate for election has to make and subscribe the oath or affirmation according to the form provided in the Third Schedule to the Constitution. Such oath or affirmation is to be made or subscribed by the candidate after he is nominated but before the date of scrutiny of nomination papers. The candidate who fails to do so becomes disqualified to be chosen.<sup>82</sup> However, a mere misprint in the form of the oath or a mere inaccuracy in rendering an expression in a regional language is not fatal to the election of a candidate, if otherwise valid.<sup>83</sup> A candidate for election to the Rajya Sabha is required to deposit a sum of rupees ten thousand (or rupees five thousand in the case of a SC/ST candidate)<sup>84</sup> by depositing it with the returning officer in cash or in the Reserve Bank of India or a Government Treasury.<sup>85</sup> The maximum of four nomination papers can only be presented in respect of one candidate and only one deposit is required to be made for that candidate.<sup>86</sup>

The returning officer examines the nomination papers and decides on their validity or otherwise. The grounds on which a nomination paper is liable to be rejected are that on the date of scrutiny the candidate is not qualified or is disqualified for being chosen to fill the seat under articles 84 and 102 of the Constitution or Part-II of the Representation of the People Act, 1951 or section 4 of the Government of Union Territories Act, 1963, or his nomination paper is not in accordance with the Representation of the People Act, 1951 or he has not made the required deposit or his proposer's signature on the nomination paper is not genuine.<sup>87</sup> The returning officer cannot, however, reject a nomination paper, on the ground of any defect which is not of a substantial character.<sup>88</sup>

A candidate may withdraw his candidature by a notice in writing signed by him and delivered to the returning officer before 3.00 p.m. on the day fixed for withdrawal either by himself personally or by his proposer or his duly authorised election agent.<sup>89</sup> Notice of withdrawal is not allowed to be cancelled.<sup>90</sup> Immediately after expiry of time of withdrawal, the

returning officer prepares and publishes a list of validly nominated candidates in an alphabetical order.<sup>91</sup>

If the number of contesting candidates is equal to the number of seats to be filled, the returning officer forthwith declares all such candidates to be duly elected to fill those seats. If the number of such candidates is more than the number of seats to be filled, a poll is taken<sup>92</sup> during the hours fixed by the Election Commission.<sup>93</sup> After a poll is taken, votes are counted<sup>94</sup> and the returning officer declares the result of the election.<sup>95</sup> As soon as may be after the result of an election has been declared, the returning officer reports the result to the Secretary-General, Rajya Sabha and the Election Commission.<sup>96</sup> The Ministry of Law and Justice then publishes in the Gazette of India the declaration containing the names of the elected candidates.<sup>97</sup> The date on which a candidate is declared elected is the date of election of that candidate.<sup>98</sup> After a candidate is declared elected the returning officer grants him a certificate of election in Form 24 of the Conduct of Elections Rules, 1961 and obtains from the candidate an acknowledgement of its receipt duly signed by him. He sends the acknowledgement by registered post to the Secretary-General of the Rajya Sabha.<sup>99</sup>

After the elections are held in any year in pursuance of the notification issued under section 12 of the Representation of the People Act, 1951, the Ministry of Law notifies in the Gazette of India the names of members elected by the elected members of the Legislative Assemblies of the States and by the members of the electoral colleges of the Union territories of Delhi and Puducherry at the said elections together with the names of persons, if any, nominated by the President under article 80(1)(a) of the Constitution.<sup>100</sup>

When before the expiration of the term of office of a member of the Rajya Sabha, his/her seat becomes vacant or is declared vacant or election is declared void, the Election Commission, by a notification calls upon the elected members of the Legislative Assembly/members of the electoral college concerned to elect a person to fill the casual vacancy. The bye-election is required to be held within six months of the occurrence of the vacancy. However, this will not apply if (i) the remainder of the term of a member in relation to a vacancy is less than one year or (ii) the Election Commission in consultation with the Central Government certifies that it is difficult to hold the bye-election within that period.<sup>101</sup>

An election can be called in question by an election petition presented on one or more of the grounds specified in the Representation of the People Act, 1951<sup>102</sup> by any candidate at such election or any elector within forty-five days from the date of the election of the returned candidate.<sup>103</sup>

### **Single transferable vote procedure**

The system of election of members of the Rajya Sabha is by proportional representation by means of the single transferable vote. The general principles of this mode of election may be summed up thus:

The single vote is transferable from one nominee to another and that takes place in two contingencies where there would otherwise be a wastage of votes. They are:

- (i) when a candidate obtains more than what is required for his success and therefore has an unnecessary surplus; and
- (ii) when a candidate polls so few votes that he has absolutely no chance and therefore the votes nominating him are liable to be wasted.<sup>104</sup>

Rules 71-85 contained in Part VII of the Conduct of Elections Rules, 1961 and the Schedule thereto are formulated on the above-mentioned principles.

Under the scheme and system envisaged by these rules, each elector has only one vote, irrespective of the number of seats to be filled. But that single vote is transferable from one candidate to another. The ballot paper bears the names of the candidates, and the elector marks on it his preferences for the candidates with the figures 1, 2, 3, 4 and so on against the names chosen by him and this marking is understood to be alternative in the order indicated. The figure 1 set by the elector opposite the name of a candidate means "first preference"; the figure 2 set opposite the name of a candidate, the "second preference" and so on.<sup>105</sup>

The minimum number of valid votes required to secure the return of a candidate at the election is called the quota. At an election where only one seat is to be filled, every ballot paper is deemed to be of the value of one at each count and the quota is determined by adding the values credited to all the candidates and dividing the total by two and adding one to the quotient, ignoring the remainder, if any, and the resulting number is the quota.<sup>106</sup>

At an election where more than one seat are to be filled, every ballot paper is deemed to be of the value of one hundred and the quota is determined by adding the values credited to all the candidates and dividing the total by a number which exceeds by one the number of vacancies to be filled and adding one to the quotient ignoring the remainder, if any, and the resulting number is the quota.<sup>107</sup> For example, assuming that there are

---

seven members to be elected, sixteen candidates and one hundred and forty electors whose ballot papers are valid, the quota will be:

$$\frac{140 \times 100}{7+1} = \text{quotient} + 1 = \text{Quota}; \quad \text{or } \frac{14000}{8} = 1750+1=1751 \text{ (Quota)}^{108}$$

The computation in the preliminary process is as under:

The returning officer first deals with the covers containing the postal ballot papers, and then opens the ballot boxes, counts the ballot papers and sorts out and rejects the ballot papers found invalid. A ballot paper is deemed invalid on which—

- (a) the figure 1 is not marked; or
- (b) the figure 1 is set opposite the names of more than one candidate or is so placed as to render it doubtful to which candidate it is intended to apply; or
- (c) the figure 1 and some other figures are set opposite the name of the same candidate; or
- (d) there is any mark or writing by which the elector can be identified.<sup>109</sup>

After rejecting the invalid papers, the returning officer (a) arranges the remaining ballot papers in parcels according to the first preference recorded for each candidate; (b) counts and records the number of papers in each parcel and the total number; and (c) credits to each candidate the value of the papers in his parcel. He then determines the quota as mentioned above.

If at the end of any count the value of ballot papers credited to a candidate is equal to, or greater than the quota, that candidate is declared elected.<sup>110</sup>

If the value of the ballot papers credited to a candidate is greater than the quota, the “surplus” is transferred to the “continuing candidates” indicated in the ballot papers of that candidate as being next in order of the elector’s preference.<sup>111</sup> “Surplus” means the number by which the value of the votes, original and transferred, of any candidate exceeds the quota. “Continuing candidate” means any candidate not elected and not excluded from the poll at any given time.<sup>112</sup> If more than one candidate have a surplus, the largest surplus is dealt with first and the others in order of magnitude, but every surplus arising on the first count is dealt with before the one arising on the second count and so on. Where there are more surpluses than one to distribute and two or more surpluses are equal,

---

regard shall be had to the “original votes” of each candidate and the candidate for whom most original votes are recorded has his surplus first distributed; and if the values of their original votes are equal, the returning officer decides by lot which candidate shall have his surplus first distributed.<sup>113</sup> “Original vote”, in relation to any candidate, means a vote derived from a ballot paper on which a first preference is recorded for such candidate.<sup>114</sup>

If the surplus of any candidate to be transferred arises from original votes only, the returning officer examines all the papers in the parcel belonging to that candidate, divides the “unexhausted papers” into sub-parcels according to the next preferences recorded thereon and makes a separate sub-parcel of the exhausted papers.<sup>115</sup> “Exhausted paper” means a ballot paper on which no further preference is recorded for a continuing candidate, provided that a paper shall be deemed to have become exhausted whenever—(a) the names of two or more candidates, whether continuing or not, are marked with the same figure and are next in order of preference; or (b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not falling consecutively after some other figure on the ballot paper or by two or more figures.<sup>116</sup> The returning officer has to ascertain the value of the papers in each sub-parcel and of all the unexhausted papers. If the value of the unexhausted papers is equal or less than the surplus, he transfers all the unexhausted papers at the value at which they were received by the candidate whose surplus is being transferred. If the value of the unexhausted papers is greater than the surplus, he transfers the sub-parcels of unexhausted papers at a reduced value which is ascertained by dividing the surplus by the total number of unexhausted papers.<sup>117</sup> The returning officer has to transfer the surplus arising from transferred as well as original votes according to the prescribed procedure.<sup>118</sup>

If after transfer of all surpluses the number of candidates elected is less than the required number, the returning officer excludes the candidate lowest on the poll and distributes his unexhausted papers among the continuing candidates according to the next preferences recorded thereon.<sup>119</sup> The papers containing original votes of an excluded candidate are first transferred, at the value of one hundred.<sup>120</sup> The papers containing transferred votes of an excluded candidate are then transferred in the order of the transfers in which, and at the value at which, he has obtained them.<sup>121</sup> If, as a result of the transfer of papers, the value of votes obtained by a candidate is equal to or greater than the quota, the count then is completed without any further transfer.<sup>122</sup> The process is repeated on the successive exclusion one after another of the candidates lowest on the poll until such vacancy is filled by the election of a candidate with the quota.<sup>123</sup> When the

number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates are declared elected.<sup>124</sup> When only one vacancy remains unfilled and the value of the papers of some one candidate exceeds the total value of the papers of all the other continuing candidates together with any surplus not transferred, that candidate is declared elected.<sup>125</sup> When only one vacancy remains unfilled and there are only two continuing candidates and each of them has the same value of votes and no surplus remains capable of transfer, the returning officer decides by lot which of them shall be excluded; and after excluding him declares the other candidate elected.<sup>126</sup>

### Nominations

Besides the two hundred and thirty-eight representatives of the States and of the Union territories, the Rajya Sabha consists of twelve members nominated by the President who have special knowledge or practical experience in respect of such matters as literature, science, art and social service.<sup>127</sup> Under the Allocation of Business Rules, 1961, the subject “Nominations to the Rajya Sabha” is allocated to the Ministry of Home Affairs which is the administrative Ministry for initiating the process of nominations. After a nomination is made by the President, that Ministry notifies the same.

On 19 December 2012, the High Court of Delhi dealt with a Public Interest Litigation (PIL) in Ram Gopal Singh Sisodia Vs. Union of India through its Secretary & Ors., challenging the nomination of Shri Sachin Ramesh Tendulkar as a member of Rajya Sabha. The Hon’ble Court examined the scope of article 80(3) of the Constitution which reads, ‘The members to be nominated by the President under sub-clause(a) of clause(1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely: literature, science, art and social service’. The Court in its judgement upheld the nomination of Shri Sachin Ramesh Tendulkar under clause 3 of article 80 of the Constitution. It *inter alia* stated that the use of the words in article 80(3) ‘in respect of such matters as the following’ is also indicative of the matters mentioned thereafter, viz., literature, science, art and social service, which are illustrative and not exhaustive. It also cited certain cases in which the Hon’ble Supreme Court of India has held that the words “such as” indicate that what are mentioned thereafter are only illustrative and not exhaustive.

The High Court while dismissing the petition observed that the framers of the Constitution of India, by adopting the principle of nomination in Rajya Sabha, ensured that the nation receives the services of the most distinguished persons of the country who have earned distinction in their field of activity. By nominating them to the Rajya Sabha, the State enables them to enrich the debates by their expertise and knowledge that they have in different areas.<sup>128</sup>

---

In the case of a casual vacancy in the seat of a nominated member, the term of office of the member nominated to fill that seat commences from the date of notification issued under sub-clause (a) of clause (1) of article 80 of the Constitution.<sup>129</sup> That member serves for the remainder of his predecessor's term of office.

The Ministry of Law had an occasion to consider a question whether there could be a casual vacancy in the seat of a nominated member. The Ministry opined:

The scheme of article 83 of the Constitution as also of section 154 (2) of the 1951 Act and the President's Order (regarding nomination) clearly suggests that elected and nominated members should be treated alike for the purpose of ensuring that one-third members of the Council of States retire on the expiration of every second year... A plain reading of the aforesaid provisions [section 154 (1) & (3)] indicates that the term of office of an elected or nominated member of the Council of States is six years and that a casual vacancy could occur in the seat of a nominated or elected member of the Council of States.

There is no basis either in article 83 of the Constitution or in any provision of the 1951 Act for holding that a nominated member chosen to fill a casual vacancy shall hold office for a term of six years.

Under the Constitution, a casual vacancy can arise when a member's seat becomes vacant or is declared vacant or his election is declared void.

The practice hitherto followed also appears to suggest that a vacancy arising in the seat of a nominated member before the completion of that member's regular term has been treated as a casual vacancy.<sup>130</sup>

The term of office of a member other than a member chosen to fill a casual vacancy is six years.<sup>131</sup> After the President has nominated a person to fill the vacancy caused by the retirement of a member, the same is notified by the Ministry of Law under section 71 of the Representation of the People Act, 1951 and the term of such a member commences from that date even though the date of notification of nomination of persons issued by the Ministry of Home Affairs precedes the notification issued by the Ministry of Law under section 71 of that Act.

Between 1952 and 2014, 124 persons have been nominated to the Rajya Sabha. The nominated members enjoy all the powers, privileges and immunities available to other elected members. However, they are not eligible to vote in the election of the President since the President is elected by the members of an electoral college consisting of the elected

members of Parliament and elected members of the Legislative Assemblies of the States (which include the National Capital Territory of Delhi and the Union territory of Puducherry).<sup>132</sup> No such restriction exists in the Vice-President's election, since the electoral college for that election consists of the members of both Houses of Parliament.<sup>133</sup> At the same time it may be mentioned that at the Centre no nominated member has yet been included in the Council of Ministers, though there is no bar against such inclusion under the Constitution.

Prof. S. Nurul Hasan was nominated to the Rajya Sabha in 1968. He resigned his seat in the Rajya Sabha on 30 September 1971. He was inducted in the Union Council of Ministers on 4 October 1971. Subsequently, he was elected to the Rajya Sabha from the State of Uttar Pradesh on 11 November 1971.

There have been instances of the nominated members of being appointed Chairmen of the Committees.<sup>134</sup> Under the Tenth Schedule, a nominated member is disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat.<sup>135</sup>

### **Appellation M.P.**

Members of the Rajya Sabha like members of the Lok Sabha also use the appellation or abbreviation "M.P." (Member of Parliament) after their names.

For some time in the beginning in 1952, members of the Council of States were affixing "M.C." to their names. On 16 May 1952, which was the fourth sitting of the Council of States, a member asked the Chairman what the Members of the Council of States would be called. The Chairman informed him that the matter was under discussion.<sup>136</sup> Meanwhile on 6 June 1952, the Speaker, House of the People, announced that he had appointed a Joint Committee on Payment of Salary and Allowances to Members of Parliament<sup>137</sup> and by another announcement on 20 June 1952, he stated that the Committee would also consider and report to Parliament what abbreviations should be used for members of the House of the People and of the Council of States. As stated by him:

A mild dissatisfaction was expressed that some of the members of the Council of States did not like the appellation "M.C." and that point will have to be considered as both the Houses together form the Parliament. That is why a reference is made. So, the Committee would make its recommendation.<sup>138</sup>

The question of abbreviations to be used for members of either House was considered by the Joint Committee at its sitting held on 28 June 1952. At the meeting different viewpoints were expressed about the exact designation by which members of either House of Parliament might be called. For instance, one member favoured the use of M.Ps. for members of the House of the People and “Councillors” for those of the Council of States. Another member was of the opinion that members of both the Houses might be called M.Ps. but for purposes of parliamentary business, members of the House of the People might be called M.P.(H) and those of the Council of States M.P.(C). Yet another member preferred the nomenclature M.Ps. for members of the House of the People and “Senators” or “Councillors” for those of the Council of States.<sup>139</sup>

At the meeting held on 15 July 1952, the Committee decided that members of both the Houses should be called Members of Parliament or M.Ps.<sup>140</sup>

The Committee in its Report presented to the House of the People on 5 August 1952 recommended accordingly.<sup>141</sup>

### **Term of office**

The Rajya Sabha is not subject to dissolution, but as nearly as possible one-third of the members thereof retire on the expiration of every second year in accordance with the provisions made in that behalf under the Representation of the People Act, 1951.<sup>142</sup> The term of office of a member (both elected and nominated) is six years.<sup>143</sup> However, a member elected/nominated to fill a casual vacancy holds office for the remainder of the term of his predecessor.<sup>144</sup> The term of office of a member begins (i) in case of a member elected/nominated biennially (*i.e.*, on the expiration of every second year) from the date on which his name is notified by the Government of India in the Gazette,<sup>145</sup> (ii) in the case of a member elected/nominated to fill a casual vacancy, from the date of publication in the Official Gazette of the declaration of his election or of the notification of his nomination, as the case may be.<sup>146</sup>

#### *Initial fixation*

The Rajya Sabha was first constituted on 3 April 1952, on the basis of the seats assigned to various States as shown in the then Fourth Schedule to the Constitution.<sup>147</sup> It consisted of 216 members—12 nominated by the President and the remaining 204 elected to represent States. Under section 154(2) of the Representation of the People Act, 1951, as it stood then, the President, after consultation with the Election Commission made an Order known as the ‘Council of States (Term of Office of Members) Order, 1952’<sup>148</sup>

for curtailing the term of office of some of the members then chosen in order that as nearly as one-third of the members holding seats of each class would retire in every second year. That order provided that the term of office of a member would expire on 2 April 1958; 2 April 1956 and 2 April 1954; accordingly members would be placed in the first, second or third category.

The elected members were grouped State-wise (except Bhopal, Bilaspur-cum-Himachal Pradesh, Delhi and Kutch which were grouped into one). Likewise twelve nominated members were also divided into three categories. The members to be placed in each category were determined by the Election Commission by drawing of lots in public on 29 November 1952.<sup>149</sup>

As a result of the categorisation and draw of lots, 72 members were placed in the first category *i.e.*, retiring in 1958, 71 each in the second and the third categories *i.e.*, retiring in 1956 and 1954, respectively. The term of office of the two representatives from the Ajmer-Coorg and the Tripura-Manipur groups was already fixed for two years and they were, therefore, not included in the categorisation or draw of lot.<sup>150</sup> A statement showing the terms of office of members as determined was published in the Gazette of India Extraordinary.<sup>151</sup> Thus, by the above process, it was ensured that as nearly as possible, one-third of the members of the Rajya Sabha would retire on the second day of April, every second year and would be replaced by new members elected in their places.

#### *Subsequent modifications*

The terms so fixed as above, were, however, modified subsequently in respect of some members due to formation or reorganisation of States. The same procedure as above was, more or less followed for the purpose. Whenever addition of seats or transfer of seats took place due to reorganisation, specific provisions were inserted in the law for fixing the term of the members elected at the election.

Under the Andhra State Act, 1953, the term of office of one member was increased so as to expire on 2 April 1958, and that of another member was reduced so as to expire on 2 April 1954.<sup>152</sup> This was done by draw of lot held by the Secretary, Rajya Sabha, as stipulated in that Act.<sup>153</sup>

Under the States Reorganisation (Council of States) (Term of Office of Members) Order, 1956,<sup>154</sup> made under the States Reorganisation Act, 1956,<sup>155</sup> in order that, as nearly as may be, one-third of the members retired on the second day of April, 1958, and on the expiration of

every second year thereafter, the term of office of three members from Bombay was reduced from 1962 to 1960 and of four other members from 1960 to 1958; the term of office of one member from Kerala was reduced from 1962 to 1960 and of another member from 1960 to 1958; the term of office of one member from Madhya Pradesh was increased from 1958 to 1960 and of two other members from 1960 to 1962; the term of office of one member each from Madras and Mysore was increased from 1958 to 1960.<sup>156</sup> The term of office of three members from Uttar Pradesh was determined so as to expire in 1962, 1960 and 1958 and that of two members from Delhi so as to expire in 1960 and 1958.<sup>157</sup> All this was done by the Election Commission by holding draw of lots.

The Bombay Reorganisation Act, 1960, provided that the term of office of one additional seat allotted to Maharashtra would expire on 2 April 1966. So far as two additional seats allotted to Gujarat were concerned, the Act provided that “the term of office of that member, who, at the counting of votes is last declared elected, or if an equality of votes is found to exist, the term of office of such one of them as the returning officer shall declare by lot, shall expire on 2 April 1964 and the term of office of the other member shall expire on 2 April 1966.”<sup>158</sup>

The Punjab Reorganisation Act, 1966, provided that the term of office of one of the two members elected to fill the vacancies existing in the seats allotted to Haryana would expire on 2 April 1968 and that of the other member would expire on 2 April 1972. This was determined by draw of lots by the Chairman, Rajya Sabha.<sup>159</sup>

Section 8 of the State of Nagaland Act, 1962, itself provided that the term of office of a member for the first time elected to fill the seat allotted to Nagaland would expire on 2 April 1968. Under section 12 of the North-Eastern Areas Reorganisation Act, 1971, a seat was allotted to Meghalaya in the Rajya Sabha. The Act did not lay down the term of office of that member, when elected. The President, therefore, issued the North-Eastern Areas Reorganisation (Removal of Difficulties) Order No. 1 under section 87 of the Act, enabling the Election Commission to fill the seat by treating it as a casual vacancy under section 147 of the Representation of the People Act, 1951. The election of that member was notified under section 67 of that Act on 13 April 1972 and his term commenced from that day and continued till 12 April 1978.

The Goa, Daman and Diu Reorganisation Act, 1987, under which a seat was allotted to the new State of Goa in the Rajya Sabha also did not contain any provision regarding the term of office of the member who would be elected. Neither section 12 (biennial election) nor section 147 (bye-election) of the Representation of the People Act, 1951 covered the Goa seat. The President, therefore, issued on 12 June 1987, the

Goa, Daman and Diu Reorganisation (Removal of Difficulties) Order No. 1 clarifying that the seat would be filled as if it were a casual vacancy through a bye-election. The notification of the member elected was issued under section 67 of the Representation of the People Act, 1951, on 8 July 1987 and the member elected served till 7 July 1993.<sup>160</sup>

Three new States, *i.e.*, Chhattisgarh, Uttarakhand and Jharkhand were carved out from the States of Madhya Pradesh, Uttar Pradesh and Bihar, respectively, in 2000. Provisions were made in the respective State Reorganisation Acts about the members who shall be deemed to be members representing the newly created States from the existing States except in the case of members retiring in 2004 and 2006 from the newly created State of Uttarakhand. A proviso was made in the Uttar Pradesh Reorganisation Act, 2000, that the Chairman, Rajya Sabha may hold a draw of lots to determine one member each from amongst the members from Uttar Pradesh, retiring in 2004 and 2006, respectively, who shall be deemed to have been elected for two seats allotted to the State of Uttarakhand. Accordingly, a draw of lots was held by the Chairman, Rajya Sabha in his Chamber in Parliament House on 2 November 2000.

A new State, *i.e.*, Telangana was carved out from the State of Andhra Pradesh in 2014. Provisions were made in the Andhra Pradesh Reorganisation Act, 2014 about the members who shall be deemed to be members representing the newly created State of Telangana from the existing Andhra Pradesh State. A provision was made in the Andhra Pradesh Reorganisation Act, 2014 that the Chairman, Rajya Sabha may hold a draw of lots to determine the seven members from amongst the members from the State of Andhra Pradesh who shall be deemed to have been elected to fill the seven seats allotted to the State of Telangana. Accordingly, a draw of lots was held by the Chairman, Rajya Sabha in his Chamber in Parliament House on 30 May 2014.

The cycle of retirement of, as nearly as possible, one-third members has been disturbed and changes in the dates of retirement have been necessitated since 1968, by reason of dissolution of assemblies and holding of mid-term elections and accordingly terms of members commenced after the elections were held. This has led to anomalous position flowing from the legal provisions of sections 154 and 155 of the Representation of the People Act, 1951, as applied to cases of vacancies which cannot be filled on due dates and which disturb the cycle of retirement of one-third members every second year.

In this context, the cases of members from Delhi and Punjab are worthy of mention. Delhi has got three members in the Rajya Sabha. Two vacancies in the Rajya Sabha from Delhi arose due to retirement of members on 15 April 1980 and on 2 April 1982. These vacancies could not be filled

as the then Delhi Metropolitan Council whose members constituted the electoral college for this election continued to be dissolved till 7 February 1983. After it was reconstituted on 8 February 1983, two separate biennial elections were held with a common programme and the term of office of both the members commenced on 21 November 1983 and both the members retired on 20 November 1989. A third vacancy arose due to the retirement of the remaining member on 2 April 1990. Biennial elections to all the three seats could be held only after the formation of the Delhi Legislative Assembly. They were held as three separate elections (since original vacancies had arisen on different dates) with a common programme. The term of office of all the three members commenced on 28 January 1994 and expired on 27 January 2000. In other words, the term of office of all the three members representing the National Capital Territory of Delhi expired simultaneously on one date.

As regards Punjab, the Rajya Sabha has five members representing that State. Three members retired on 2 April 1988 and two others on 9 April 1990. In view of the dissolution of the State Assembly, elections could not be held there. After the Legislative Assembly was duly constituted after elections, two sets of vacancies were notified with reference to the dates on which the vacancies arose, with a common programme of election to fill both the sets of vacancies. The term of office of all the five members was for six years commencing on 10 April 1992 (and not for the remaining period of original vacancies) and all the five members retired simultaneously on 9 April 1998.

In order to overcome such situations, the Election Commission recommended that the law should be amended in such a manner that if the elections were not held on the due date by virtue of non-existence of the electoral college or otherwise, the member to be elected later should serve only for the remainder of the six years' period and not for the full period of six years as now allowed under the law. The Commission was of the view that minor amendments in sections 154 and 155 of the Representation of the People Act, 1951, would set right the anomalous position of more than one third of members retiring on the same day.<sup>161</sup> However, the Goswami Committee felt that it was not necessary to amend the law to provide for one single day of retirement in all cases. Such a course, the Committee felt, would "unnecessarily curtail and interfere with" the term of members of the Rajya Sabha.<sup>162</sup>

On an occasion, a member pointed out that three members of Kerala were retiring on 2 April 1966 and due to non-functioning of Kerala Legislative Assembly there would be no elections there (Kerala was brought under the President's Rule on 24 March 1965 and it continued

till 6 March 1967). He, therefore, suggested that the Constitution should be amended to provide that till the new members were elected the sitting Members might be allowed to continue. The Minister of State in the Ministry of Home Affairs, in reply, stated that if there was any provision in the Constitution whereby it could be possible, certainly Government would see to it, consider what the constitutional position was or should be.<sup>163</sup>

The position in respect of nominated members is also similar in as much as due to delay in or deferment of nominations beyond the date of expiration of the term of office of some members, the cycle of retirement of nominated members has also been broken, as may be seen from the following instances:

Four nominated members retired on 2 April 1978. In their places equal number of members were nominated on 14 April 1978, who retired on 13 April 1984 and in their places three members were nominated on 9 May 1984 and the fourth one was nominated on 3 January 1985; in the places of those who retired on 8 May 1990, nominations were made for one on 28 May 1990 and for two on 18 September 1990 and for the fourth one on 11 January 1991.

Four nominated members retired on 2 April 1986. Nominations in their places were made on 12 May 1986 and in place of those who retired on 11 May 1992, nominations were made on 27 August 1993.

Four nominated members retired on 26 September 1988. In their places nominations were made of three members on 25 November 1988 and of the fourth member on 15 June 1989.

One nominated member expired on 12 January 1992; two nominated members retired on 24 November 1994; three nominated members retired on 14 June 1995, 27 May 1996 and 10 January 1997, respectively; two nominated members retired on 17 September 1996 and one nominated member expired on 24 May 1997. Nominations against these 9 vacancies were made on 27 August 1997.

Four nominated members retired on 26 August 1999, and nominations in their places were made on 22 November 1999.

Eight nominated members retired on 26 August 2003. Seven members were nominated on 27 August 2003. Another member Kumari Nirmala Deshpande was nominated on 24 June 2004.

One nominated member, Shri Vidya Nivas Misra, passed away in February 2005 and Shri Ram Jethmalani was nominated on 10 April 2006 for the remainder of Shri Misra's term, *i.e.*, upto 26 August 2009.

Four nominated members retired on 21 November 2005. Three members were nominated on 16 February 2006 and one member on 10 April 2007.

One nominated member, Dr. K. Kasturirangan resigned on 8 July 2009 and six members retired on 26 August 2009. Two members were nominated on 18 November 2009 and five members on 22 March 2010.

On an occasion, a member made a Special Mention to draw the attention of the House to the inordinate delay in filling the vacancies caused by the retirement of four nominated members on 2 April 1982. The member, *inter alia*, contended that it was the first time in thirty years that two sessions had passed by, more than three and a half months elapsed and the seats remained vacant; normally the nominations should have been announced on 3 April 1982, when the Election Commission notified new members elected in the biennial elections. The member, therefore, wanted the Government to make its position clear in the House.<sup>164</sup> The nominations, however, took place on 27 September 1982.

### Vacation of seats

The situations or circumstances under which a member may cease to be a member of the House and his seat becomes vacant are:

1. A member becomes disqualified, if he –
  - (a) holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;<sup>165</sup>

In reference Case No. 7 of 1981 to the Election Commission from the President of India under article 103(2) of the Constitution regarding disqualification of Shri R. Mohanarangam, a sitting member of the Rajya Sabha, a joint petition dated 20 November 1981, was filed by Shri C.T. Dhandapani and Shri Satyendran, Members of the Lok Sabha and others on the ground that Shri Mohanarangam had become subject to the disqualification mentioned in article 102(1)(a) of the Constitution by virtue of his holding the office of the Special Representative of the Government of Tamil Nadu at New Delhi. The Election Commission after inquiry concluded that enjoyment of some of the privileges or benefits like use of staff car, occupation of Tamil Nadu House, Delhi, use of telephone, the office of the Special Representative was to be treated as capable of yielding a profit and that the holder might be reasonably expected to make profit. Further, these facilities gave the holder, Shri Mohanarangam, a status symbol and prestige which was not ordinarily enjoyed by a Member of Parliament as such. The Commission, therefore held that Shri Mohanarangam had become subject

to the disqualification for being a member of the Rajya Sabha under article 102(1)(a) of the Constitution by virtue of his holding the office of the Special Representative of the Tamil Nadu Government at New Delhi which was for the purpose of the said article to be treated as an ‘office of profit.’ The President of India passed an order accordingly on 8 September 1982.<sup>166</sup>

A petition of alleged disqualification of Shrimati Jaya Bachchan under article 103(1) of the Constitution was submitted to the President by Shri Madan Mohan of Kanpur. He averred that after her election to Rajya Sabha, the Uttar Pradesh Government appointed Shrimati Bachchan as the Chairperson of Uttar Pradesh Film Development Council with effect from 14 July 2004, thereby making her an holder of an office of profit within the meaning of article 102(1). On 2 March 2006 the Election Commission opined that the member became disqualified under article 102(1)(a) on and from, 14 July 2004 on her appointment as the Chairperson of the said Council. Accordingly, the President of India, under article 103(1) decided that Shrimati Jaya Bachchan stood disqualified for being a member of Rajya Sabha on and from, 14 July 2004.<sup>167</sup>

- (b) is declared by a competent court to be of unsound mind;
- (c) becomes an undischarged insolvent;
- (d) voluntarily acquires the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State; or
- (e) is disqualified under the Tenth Schedule.

In May 1989, August 1989, December 2005 and April 2007, four petitions were received by the Chairman from individual members of the Rajya Sabha seeking disqualification of Shri Mufti Mohammad Sayeed, Shri Satya Pal Malik, Shri Jai Narain Prasad Nishad and Shri Isam Singh for voluntarily giving up the membership of their party, under the Tenth Schedule and the rules framed thereunder. The Chairman referred the cases to the Committee of Privileges for preliminary inquiry and report to him. Thereafter, the Chairman gave his decision holding the concerned members disqualified. The decisions were announced in the House, published in the Bulletin Part-II and notified in the Gazette of India.<sup>168</sup>

2. If a person is chosen a member of both the Houses but has not taken his seat in either of them, then he has to intimate in writing to the Election Commission, within ten days of the publication of the declaration that he has been so chosen in the Gazette of India in which House he wishes to serve and thereupon his seat in the House in which he does not wish to serve becomes vacant. The intimation given is final and irrevocable.

If he fails to give such intimation, his seat in the Rajya Sabha becomes vacant after the expiration of that period.<sup>169</sup>

3. If a member of one House is chosen a member of other House of Parliament, his seat in the first House becomes vacant with effect from the date on which he is chosen a member of the other House.<sup>170</sup>

The number of members of the Rajya Sabha who vacated their seats in the Rajya Sabha consequent upon their election to the Lok Sabha at various times was:

1957 (2nd Lok Sabha)–15; 1962 (3rd Lok Sabha)–15; 1967-68 (4th Lok Sabha)–14; 1971-72 (5th Lok Sabha)–5; 1977 (6th Lok Sabha)–11; 1980 (7th Lok Sabha)–10; 1984 (8th Lok Sabha)–9; 1989 (9th Lok Sabha)–12; 1991 (10th Lok Sabha)–4; 1996 (11th Lok Sabha)–4; 1998 (12th Lok Sabha)–9; 1999 (13th Lok Sabha)–4; 2004 (14th Lok Sabha)–8; 2009 (15th Lok Sabha)–14; and 2014 (16th Lok Sabha)–6.

In 1962, a member who had ceased to be the member of the Rajya Sabha upon his election to the Lok Sabha, raised a point that the cessation of his membership of the Rajya Sabha should take place only on the date of constitution of the new Lok Sabha to which he was elected and not immediately on his election. A reference was, therefore, made to the Ministry of Law suggesting that the word “chosen” in section 68 of the Representation of the People Act, 1951, should have its ordinary natural meaning, and in section 69 which dealt with a sitting member, the date on which a person was chosen to be a member of the other House should be – (a) in the case of a member elected at a general election, the date on which the new Lok Sabha would be deemed to be duly constituted or the date of his election, whichever was later, and (b) in the case of any other elected member, i.e., in the case of a bye-election, the date of his election and the law be amended accordingly. The Ministry of Law did not agree to the suggestion, *inter alia*, on the following grounds:

- (i) There does not appear to be any valid reason as to why the word “chosen” should not be given its ordinary and natural meaning in cases, both of general elections and bye-elections. It may be that the constitution of the Lok Sabha on a general election may take place some time later, that is to say, on the issue of the notification under section 73 of the Representation of the People Act, 1951, but that cannot obliterate the fact that a person has already been “chosen” as a member of the Lok Sabha. Had the intention of the framers of the Constitution been otherwise, then they would not have used at all the word “chosen” in the second part of article 101(1).
- (ii) From the standpoint of principle, there is no reason for giving different meanings to the word “chosen”. The principle seems

to be that a person cannot have divided loyalties to the two Houses of Parliament. The fact that a sitting member of one House has been chosen to the other House shows the absence of his loyalty and attachment for the House of which he is a sitting member. In such a case, the sooner he leaves the House of which he is a sitting member, the better for that House and for that person also, because a person has no right to serve even for a single day a House which he does not like. It is possible to conceive that his love for the new House as evidenced by his election thereto may come into clash with his obligation and duty to the House of which he is the sitting member. Every Member of Parliament takes an oath or a solemn affirmation that he will “faithfully discharge the duty upon which he is about to enter”. If a person after his election, say, to the Lok Sabha, continues to be a member of the Rajya Sabha, he may not be able to discharge faithfully his duties as a member of the Rajya Sabha and may thereby act in violation of the oath or solemn affirmation which he has taken. This is why the word “chosen” has been used in the second part of article 101(1) and that word has been given a uniform meaning both in sections 68 and 69 of the Representation of the People Act.

- (iii) It is possible to imagine a situation in which the two Houses may come to clash. As for example, the two Houses may disagree on an important Bill and political complexion of the two Houses may be different. In such a case, if a sitting member of the Rajya Sabha who has been chosen as a member of the Lok Sabha, is allowed to continue as a member even after he has been so chosen, his voting in the House which he has discarded may easily tilt the balance thereby causing a political and constitutional crisis having serious repercussions.
- (iv) It is said that if a sitting member of the Rajya Sabha ceases to be a member of that House on the date of his election to the Lok Sabha, then, he ceases to be a member of the Rajya Sabha even before the Lok Sabha is duly constituted, thereby he may not be able to attend any session of the Rajya Sabha which may be called during the interregnum. This is no doubt an inconvenience, but this is not likely to be a glaring inconvenience because the interregnum, in any case, cannot be long. And on the principles stated above, every sitting member of the Rajya Sabha who is chosen as a member of the Lok Sabha should not hesitate to bear up with this little inconvenience.<sup>171</sup>

4. If a person is elected to more than one seat in the House, then all the seats become vacant, unless he resigns within fourteen days all but one of the seats.<sup>172</sup>

Shri Mehr Chand Khanna was elected from Delhi in April 1956. Subsequently, he was elected from West Bengal on 13 December 1956.

He resigned his seat from Delhi on 15 December 1956. He took oath as a member from West Bengal on 17 December 1956.<sup>173</sup>

Shri Jagannath Prasad was elected from Rajasthan on 27 February 1965 and took oath on 3 March 1965. He was elected again from that State to fill another seat on 9 March 1966. He resigned his earlier seat on 21 March 1966 and again took oath of the later seat on 22 March 1966.<sup>174</sup>

Shri Somappa R. Bommai was elected from Odisha on 2 July 1992, and his term was to expire on 1 July 1998. He was elected again from Karnataka in biennial elections to the Rajya Sabha on 20 March 1998. He resigned his earlier seat from the State of Odisha on 2 April 1998, as per provisions of section 70 of the Representation of the People Act, 1951, read with section 91 of the Conduct of Election Rules, 1961.<sup>175</sup>

Prof. Ram Deo Bhandari was elected from Bihar on 8 July 1992. He was elected again from that State in bye-election to Rajya Sabha on 10 June 1998. He resigned his earlier seat on 22 June 1998 as per provisions of section 70 of the Representation of the People Act, 1951, read with section 91 of the Conduct of Election Rules, 1961.<sup>176</sup>

Shri Narendra Budania was elected from Rajasthan on 4 August 2009, and his term was to expire on 4 July 2010. He was elected again from that State to fill another seat on 15 June 2010. He resigned his earlier seat on 22 June 2010 and again took oath of the latter seat on 26 July 2010.<sup>177</sup>

Shri Prem Chand Gupta was elected from Bihar on 10 April 2008, and his term was to expire on 9 April 2014. He was elected again from Jharkhand in biennial elections to the Rajya Sabha on 31 January 2014. He resigned his earlier seat on 12 February 2014, as per provisions of section 70 of the Representation of the People Act, 1951, read with section 91 of the Conduct of Election Rules, 1961.<sup>178</sup>

Dr. Kanwar Deep Singh was elected from Jharkhand on 8 July 2010, and his term was to expire on 7 July 2016. He was elected again from West Bengal in biennial elections to the Rajya Sabha on 7 February 2014. He resigned his earlier seat on 19 February 2014, as per provisions of section 70 of the Representation of the People Act, 1951, read with section 91 of the Conduct of Election Rules, 1961.<sup>179</sup>

5. If a person is chosen as a member both of the Rajya Sabha and a House of the State Legislature, his seat in the Rajya Sabha becomes vacant unless he has resigned his seat in the State Legislature within a period of fourteen days from the date of publication of the declaration of his election in the Gazette of India or in the State Gazette whichever is later.<sup>180</sup>

Shri Joy Bhadra Hagjer, a member was elected to the Legislative Assembly of Assam on 3 March 1962. His seat in the Rajya Sabha became vacant on 17 March 1962.

Shri M.A.M. Naicker was elected to the then Madras Legislative Council on 1 April 1964. His seat in the Rajya Sabha became vacant on 15 April 1964.

Shri L. Ganesan was elected to the Tamil Nadu Legislative Council on 28 March 1986. His seat in the Rajya Sabha became vacant on 10 April 1986.<sup>181</sup>

The seat of Shri Ghulam Rasool Kar, a nominated member of the Rajya Sabha became vacant on 28 December 1987, consequent upon his election to the J & K Legislative Council on 14 December 1987.<sup>182</sup>

Shri D.B. Chandre Gowda, a member from Karnataka vacated his seat in the Rajya Sabha on 14 December 1989, consequent on his election to Karnataka Legislative Assembly on 30 November 1989.<sup>183</sup>

Shri R.K. Dorendra Singh, a member from Manipur vacated his seat in the Rajya Sabha on 12 March 1990, consequent upon his election to the Manipur Legislative Assembly.<sup>184</sup>

Dr. Jagannath Mishra, a member from Bihar vacated his seat in the Rajya Sabha on 16 March 1990, following his election to the Bihar Legislative Assembly.<sup>185</sup>

Shrimati Omem Moyong Deori, a member from Arunachal Pradesh vacated her seat in the Rajya Sabha on 19 March 1990, following her election to the Arunachal Pradesh Legislative Assembly.<sup>186</sup>

Km. Mayawati, a member from Uttar Pradesh vacated her seat in the Rajya Sabha on 25 October 1996, following her election to the Uttar Pradesh Legislative Assembly.<sup>187</sup>

Shrimati Anandiben Jethabhai Patel, a member from Gujarat vacated her seat in the Rajya Sabha on 12 March 1998, consequent upon her election to the Gujarat Legislative Assembly.<sup>188</sup>

Shri S. M. Krishna, a member from Karnataka vacated his seat in the Rajya Sabha on 14 October 1999, following his election to the Karnataka Legislative Assembly.<sup>189</sup>

Shri Raj Mohinder Singh, a member from Punjab vacated his seat in the Rajya Sabha on 1 March 2001, following his election to the Punjab Legislative Assembly on 23 February 2001.<sup>190</sup>

Shri Rajnath Singh, a member from Uttar Pradesh vacated his seat in the Rajya Sabha on 19 April 2001, following his election to the Uttar Pradesh Legislative Assembly on 9 April 2001.<sup>191</sup>

Shri N. Thalavai Sundaram, a member from Tamil Nadu vacated his seat in the Rajya Sabha on 18 May 2001, following his election to the Tamil Nadu Legislative Assembly on 13 May 2001.<sup>192</sup>

---

Md. Salim, a member from West Bengal vacated his seat in the Rajya Sabha on 24 May 2001, following his election to the West Bengal Legislative Assembly.<sup>193</sup>

Sardar Balwindar Singh Bhunder, a member from Punjab vacated his seat in the Rajya Sabha on 7 March 2002, following his election to the Punjab Legislative Assembly.<sup>194</sup>

Shri Mohd. Azam Khan, a member from Uttar Pradesh vacated his seat in the Rajya Sabha on 9 March 2002, following his election to the Uttar Pradesh Legislative Assembly.<sup>195</sup>

Shri Sharief-ud-Din Shariq, a member from Jammu & Kashmir vacated his seat in the Rajya Sabha on 26 October 2002, following his election to the Jammu & Kashmir Legislative Assembly.<sup>196</sup>

Shri Munavvar Hasan, a member from Uttar Pradesh vacated his seat in the Rajya Sabha on 27 January 2004, following his election to the Uttar Pradesh Legislative Council.<sup>197</sup>

Shri Man Mohan Samal, a member from Odisha vacated his seat in the Rajya Sabha on 23 May 2004, following his election to the Odisha Legislative Assembly.<sup>198</sup>

The seat of Shri Stephen Marandi, a member from Jharkhand was declared vacant in the Rajya Sabha under article 101(2) of the Constitution, read with rule 2 of the Prohibition of Simultaneous Membership Rules, 1950 on 16 March 2005 consequent upon his election to the Jharkhand Legislative Assembly.<sup>199</sup>

Shri Ghulam Nabi Azad, a member from Jammu & Kashmir vacated his seat in the Rajya Sabha on 29 April 2006, following his election to the Jammu & Kashmir Legislative Assembly on 27 April 2006.<sup>200</sup>

Shri N. K. Premachandran, a member from Kerala vacated his seat in the Rajya Sabha on 17 May 2006, following his election to the Kerala Legislative Assembly on 11 May 2006.<sup>201</sup>

Shri Suresh Bhardwaj, a member from Himachal Pradesh vacated his seat in the Rajya Sabha on 9 January 2008, consequent upon his election to the Himachal Pradesh Legislative Assembly in December 2007.<sup>202</sup>

The seat of Shri T. R. Zeliang, a member from Nagaland was declared vacant in the Rajya Sabha on 24 March 2008, consequent upon his election to the Nagaland Legislative Assembly on 10 March 2008 in accordance with article 101(2) of the Constitution read with rule 2 of the Prohibition of Simultaneous Membership Rules, 1950.<sup>203</sup>

Shri Hemant Soren, a member from Jharkhand vacated his seat in the Rajya Sabha on 4 January 2010, consequent upon his election to the Jharkhand Legislative Assembly in 2009.<sup>204</sup>

Shri Prithviraj Chavan, a member from Maharashtra vacated his seat in the Rajya Sabha on 6 May 2011, consequent upon his election to the Maharashtra Legislative Council on 27 April 2011.<sup>205</sup>

Shri Anil H. Lad, a member from Karnataka vacated his seat in the Rajya Sabha on 20 May 2013, consequent upon his election to the Karnataka Legislative Assembly on 8 May 2013.<sup>206</sup>

Shrimati Maya Singh, a member from Madhya Pradesh vacated her seat in the Rajya Sabha on 23 December 2013, consequent upon her election to the Madhya Pradesh Legislative Assembly on 10 December 2013.<sup>207</sup>

Shri Shashi Bhushan Behera and Shri Rabinarayan Mohapatra, members from Odisha vacated their seats in the Rajya Sabha on 28 May and 30 May 2014 respectively consequent upon their election to the Odisha Legislative Assembly.<sup>208</sup>

Shri Ranbir Singh Parjapati and Shri Mohammad Shafi, members from Haryana and Jammu and Kashmir vacated their seats in the Rajya Sabha on 1 November 2014 and 12 January 2015 respectively consequent upon their election to the Haryana and Jammu and Kashmir Legislative Assemblies respectively.<sup>209</sup>

A point was raised whether a member who has been appointed a Minister in a State could continue to sit in the House. The Chairman ruled that the Minister concerned had not become subject to any of the disqualifications. The question of disqualification could arise when that member was chosen a member of the State Legislature. On the Question of propriety of such a member taking part in the proceedings of the House, the Chairman observed:

It does seem somewhat odd that a member functioning as a Minister in a State should be attending the Rajya Sabha and taking part in the proceedings thereof. I would, however, like to leave it to the good sense of the member.<sup>210</sup>

6. If a member's election is declared void by the High Court,<sup>211</sup> his seat becomes vacant as soon as the order is pronounced by the Court.<sup>212</sup> Where stay has been granted on the operation of the Order, it is deemed never to have taken effect.<sup>213</sup> Where the Supreme Court allows the member to attend the House pending disposal of appeal by the said Court only for the days necessary to keep the appellant member's seat alive, the member continues to be a member of the House subject to restrictions mentioned in the order of the Supreme Court.

The election of Shri K. P. Verma, a member from Madhya Pradesh was set aside by the Election Tribunal, Bhopal on 22 December 1960, which was subsequently upheld by the Madhya Pradesh High Court, on appeal.<sup>214</sup>

The election of Dr. Anup Singh, a member from Punjab was set aside on 22 November 1962.<sup>215</sup>

Shri John *alias* Valampuri John was declared elected to the Rajya Sabha from the State of Tamil Nadu during the biennial elections held in March 1974. His election to the Rajya Sabha was, however, challenged in the Madras High Court, on the ground that he had not completed thirty years of age as required under article 84 of the Constitution, on the date of filing his nomination. The Madras High Court, on 14 October 1974, declared his election to the Rajya Sabha as void and set it aside. Shri John subsequently appealed to the Supreme Court against the judgment of the Madras High Court. The Supreme Court granted *ex parte* stay on 10 January 1975, on certain terms. On 12 April 1977, the Supreme Court dismissed the appeal upholding the judgment of the Madras High Court declaring Shri John's election as void since he had not completed thirty years of age on the date of scrutiny of nominations.<sup>216</sup>

The Supreme Court set aside the election of Shri Raghbir Singh Gill from Punjab on 9 May 1980.<sup>217</sup>

The election of Shri Amritlal Basumatary was set aside by the High Court of Guwahati on 7 November 1990 and the Supreme Court by its Order dated 1 August 1991, upheld the judgment of the High Court.<sup>218</sup>

The election of Shri Shibu Soren was set aside by the High Court of Judicature at Patna *vide* its order dated 10 May 2000. On an appeal by Shri Soren, the Supreme Court stayed the operation of the Order of the High Court of Judicature at Patna by its order dated 22 May 2000. The Supreme Court *vide* its judgment dated 19 July 2001 affirmed the judgment of the Patna High Court setting aside the election of Shri Shibu Soren to the Rajya Sabha and upheld the declaration made by the High Court in favour of Shri Dayanand Sahay.<sup>219</sup>

7. If a member has been convicted or found guilty of certain offences under the Indian Penal Code or of an electoral offence mentioned in section 125 or section 135 or section 136 of the Representation of the People Act, 1951 or has incurred any other disqualification mentioned in Part II, Chapter III of the said Act, his seat becomes vacant.<sup>220</sup>

Shri Rasheed Masood, member was convicted under section 120B read with sections 420 and 468 of the Indian Penal Code (45 of 1860) and sub-section (2) of section 13 read with clause (d) of sub-section (1) of section 13 of the Prevention of Corruption Act, 1988 (49 of 1988) on the 19 September 2013 for offences under both enactments on 1 October 2013. Shri Masood was, thus disqualified from his membership of the Rajya Sabha from his date of conviction, i.e. 19 September 2013

in terms of section 8 of the Representation of the People Act, 1951 (43 of 1951) read with sub-clause (e) of clause (1) of article 102 of the Constitution.<sup>221</sup>

8. If a member remains absent from all the meetings of the House for a period of sixty days or more without the permission of the House, his seat may become vacant.<sup>222</sup>

A member was not granted leave of absence. However, no motion to unseat him was moved in the House on that score.<sup>223</sup>

Another member did not apply for leave of absence even though his absence exceeded sixty days. No action, however, was initiated to unseat him under article 101(4).<sup>224</sup>

An elected member (Shri Barjinder Singh Hamdard) from Punjab absented himself from the sittings of the Rajya Sabha for more than 60 days without applying for any leave of absence to the Chairman, Rajya Sabha. The fact was brought to the notice of the Leader of the House (Shri Jaswant Singh) by the Secretary-General, Rajya Sabha. Later on the Minister of Parliamentary Affairs and Information Technology (Shri Pramod Mahajan) moved a motion in the House on 21 December 2000 that in pursuance to article 101(4) of the Constitution, the seat of Shri Barjinder Singh Hamdard who had absented himself from all the meetings of the House for more than 60 days, be declared vacant. The motion was adopted by the House. A notification declaring the seat of said member vacant was also issued.<sup>225</sup>

9. A member's seat becomes vacant consequent upon adoption of a motion by the House expelling the member.

A member was expelled from the House for his conduct "derogatory to the dignity of the House and its members, and inconsistent with the standards which the House expects from its members" by a motion moved by the Leader of the House and adopted by the House, on the basis of the Report of the Committee appointed specifically for the purpose of investigation of the conduct and activities of the concerned member.<sup>226</sup>

Consequent on the adoption of a motion by the House on 23 December 2005 agreeing with the recommendations of the 7th Report of the Committee on Ethics, Dr. Chhattrapal Singh Lodha was expelled from the membership of the House, as his conduct was derogatory to the dignity of the House and inconsistent with the Code of Conduct, which had been adopted by the House. Consequently, Dr. Lodha ceased to be a member of the Rajya Sabha w.e.f. 23 December 2005, afternoon.<sup>227</sup>

Dr. Swami Sakshiji Maharaj was expelled from the membership of the Rajya Sabha consequent on the adoption of a motion of the 8th Report of the Committee on Ethics by the House on 21 March 2006.<sup>228</sup>

---

10. If a member is elected to the office of the President,<sup>229</sup> or of the Vice-President,<sup>230</sup> or is appointed as Governor of a State,<sup>231</sup> his seat in the House becomes vacant upon his entering upon the office to which he is elected or appointed, as the case may be.

Three members, namely, Dr. Zakir Husain, Hafiz Mohd. Ibrahim and Shri G.S. Pathak were appointed as Governors of Bihar, Punjab and Mysore, respectively. They assumed office on 6 August 1957, 4 May 1964 and 13 May 1967, respectively. They ceased to be members of the Rajya Sabha from those dates without tendering resignation from the membership of the Rajya Sabha.

Shri B. Satyanarayan Reddy, a member from Andhra Pradesh resigned from his membership of the Rajya Sabha on 11 February 1990 upon his appointment as Governor of Uttar Pradesh.<sup>232</sup>

Shri Virendra Verma, a member from Uttar Pradesh resigned from his membership of the Rajya Sabha on 14 June 1990 upon his appointment as Governor of Punjab.<sup>233</sup>

Shri Sunder Singh Bhandari, a member from Rajasthan resigned from his membership of the Rajya Sabha on 26 April 1998 upon his appointment as Governor of Bihar.<sup>234</sup>

Shri T.N. Chaturvedi, a member from Uttar Pradesh resigned from his membership of the Rajya Sabha on 20 August 2002 upon his appointment as Governor of Karnataka.<sup>235</sup>

Dr. A.R. Kidwai, a member from NCT of Delhi resigned from his membership of the Rajya Sabha on 7 July 2004 upon his appointment as Governor of Haryana.<sup>236</sup>

Shri Hans Raj Bhardwaj, a member from the State of Haryana resigned from his membership of the Rajya Sabha on 29 June 2009 upon his appointment as Governor of Karnataka.<sup>237</sup>

Shri Shivraj Vishwanath Patil, a member from the State of Maharashtra resigned from his membership of the Rajya Sabha on 21 January 2010 upon his appointment as Governor of Punjab.<sup>238</sup>

Shri Kaptan Singh Solanki, a member from the State of Madhya Pradesh vacated his seat in the Rajya Sabha on 27 July 2014, the date on which he entered upon his office as Governor of the State of Haryana.<sup>239</sup>

11. If a member is disqualified for being a member of the House, his seat becomes vacant.<sup>240</sup>

Dr. M. Chenna Reddy was elected to the Rajya Sabha in the biennial elections for the term commencing on 3 April 1968. Earlier he was elected to the Andhra Pradesh Legislative Assembly in the elections held in February 1967. In respect of that election, the Andhra Pradesh

High Court had held the election void on ground of corrupt practice. Later, the Supreme Court, on appeal, also upheld the judgment of the High Court. Thereupon the Election Commission informed all concerned that Dr. Reddy had incurred disqualification for being a Member of Parliament or a State Legislature for six years with effect from 26 April 1968, the date of High Court's judgment. Dr. Reddy, therefore, ceased to be the member of the Rajya Sabha from that date.

The following members were disqualified under the provisions of the Tenth Schedule to the Constitution of India:-

Shri Mufti Mohammad Sayeed (INC) was disqualified on 28 July 1989.<sup>241</sup>

Shri Satya Pal Malik (INC) was disqualified on 14 September 1989.<sup>242</sup>

Shri Jai Narain Prasad Nishad (BJP) was disqualified on 26 March 2008.<sup>243</sup>

Shri Isam Singh (BSP) was disqualified on 4 July 2008.<sup>244</sup>

12. When a member resigns his seat and his resignation is accepted by the Chairman, he ceases to be a member upon acceptance of the resignation.<sup>245</sup>

Originally the Constitution did not contain any provision for acceptance of the resignation by the Presiding Officer. The requirement of acceptance of resignation by the Presiding Officer was introduced by the Constitution (Thirty-third Amendment) Act, 1974, to put a check on forced resignations.

The resignation of the member has to be in writing under his hand and addressed to the Chairman.<sup>246</sup> If a member hands over the letter of resignation to the Chairman and informs him that the resignation is voluntary and genuine and the Chairman has no information or knowledge to the contrary, the Chairman may accept the resignation immediately.<sup>247</sup> If the Chairman receives the letter of resignation either by post or through some other person, the Chairman may make such inquiry as he thinks fit, to satisfy himself that the resignation is voluntary and genuine. If the Chairman, after making a summary inquiry either himself or through the agency of the Rajya Sabha Secretariat or through such other agency as he may deem fit, is satisfied that the resignation is not voluntary or genuine, he may not accept the resignation.<sup>248</sup>

The resignation takes effect from the date specified by the member if accepted by the Chairman by that date and if no such date is specified then from the date of acceptance by the Chairman. A member may withdraw his resignation at any time before it is accepted by the Chairman. He cannot do so after its acceptance by the Chairman.<sup>249</sup>

A member from Andhra Pradesh sent a letter dated 1 November 1989, which was received by post in the Secretariat on 7 November 1989

resigning his seat from the Rajya Sabha on the ground that he was contesting the Assembly election. Attempts were, therefore, made to contact the member to satisfy whether the resignation was voluntary. By the time a decision on the resignation could be taken, the member personally visited Delhi and gave another letter that he had lost the election and would like to continue in the Rajya Sabha and withdrew his resignation. The Chairman accepted the request and the member was allowed to withdraw the resignation.<sup>250</sup>

After the resignation is accepted by the Chairman, the House is informed that the member concerned has resigned his seat in the House and the Chairman has accepted the resignation.<sup>251</sup> When the House is not in session, the information is communicated to the House immediately after it reassembles.<sup>252</sup>

As soon as may be, after the Chairman has accepted the resignation of a member, the Secretary-General causes the information to be published in the Bulletin Part-II and the Gazette of India, Extraordinary and forwards a copy of the Gazette Notification to the Election Commission for taking steps to fill the vacancy thus caused. Where the resignation is to take effect from a future date, the information is published in the Bulletin and the Gazette not earlier than that date.<sup>253</sup> Reasons given by a member in his letter of resignation are not conveyed to the House.

When the Chairman announced the resignation of a member, another member asked, "why". The Chairman observed, "If a member resigns I do not ask why."<sup>254</sup> {This was prior to 1975}

On an occasion when the Chairman informed the House of the resignation of a member, another member wanted to know whether the resigning member had given any reasons. The Chairman replied in the negative. Another member observed that the Chairman had to satisfy himself that it was not a resignation under duress. The member, therefore, wanted to know whether the Chairman was satisfied that the member concerned had resigned of his own free will. The Chairman stated that after the resignation was accepted, it was final and that no member had a right to question the decision of the Chairman. About the particular resignation, he clarified, however:

I am satisfied. I know the provisions of the Constitution. I took time. I contacted him. I wanted him to come and speak to me. It was only when I was completely satisfied that he has not written under duress that I accepted his resignation. His signatures are there. Everything is there. I am satisfied and the thing is final.<sup>255</sup>

A member may also resign his seat before he has taken his seat in the House by making the necessary oath/affirmation.

Shri Harideo Joshi, a member elected from Rajasthan resigned his seat on 3 April 1958, the date on which his term commenced. He had not taken oath and no announcement of the resignation was made.

Shri M.C. Chagla who was elected from Maharashtra and whose term commenced on 2 April 1962, resigned on 17 April 1962.<sup>256</sup> He had not taken oath.

Shri B.D. Behring, a member from Manipur, resigned before making oath/affirmation on 10 April 1990, the date on which his term of office also commenced.<sup>257</sup>

Shrimati Leeladevi Renuka Prasad, a member from Karnataka, resigned on 22 April 1996, before making oath/affirmation; her term of office had commenced on 10 April 1996.<sup>258</sup>

### **Salary, allowances, pension and other facilities**

#### *Salary*

Members of either House of Parliament are entitled to receive such salary and allowances as may from time to time be determined by Parliament by law.<sup>259</sup> Pursuant to this provision Parliament has enacted the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954). The main provisions regarding salary, etc. of members are made by that Act but details are worked out by a Joint Committee consisting of members of both Houses of Parliament which is entrusted with the rule-making task after consulting the Union Government for regulating the payment of daily and travelling allowances and pension. The rules are subject to approval of and confirmation by the Presiding Officers of the two Houses.<sup>260</sup>

Each member other than a Minister or Officer of the House is entitled to receive a salary at the rate of rupees fifty thousand per mensem<sup>261</sup> during the whole of his term of office. The term of office of a member of the Rajya Sabha begins, when a member is elected in biennial election or nominated, from the date of publication of the notification in the Official Gazette notifying his election or nomination under section 71 of the Representation of the People Act, 1951, or when he is elected in a bye-election or nominated, from the date of his election as provided under section 67A of the Representation of the People Act or the date of nomination, as the case may be,<sup>262</sup> and ends on the date on which his seat becomes vacant by reason of death, resignation, retirement or otherwise.

#### *Constituency allowance*

A member is also entitled during the whole of his term of office a Constituency Allowance of rupees forty-five thousand per mensem<sup>263</sup> and Office Expense Allowance at the rate of rupees forty-five thousand per mensem<sup>264</sup> out of which rupees fifteen thousand will be for meeting expenses

on stationery items etc. Rupees thirty thousand to person(s) engaged for obtaining secretarial assistance and one such person shall be computer literate.

#### *Daily allowance*

In addition to the monthly salary and the allowances mentioned above, an allowance is paid to each member at the rate of rupees two<sup>265</sup> thousand for each day during any period of residence on duty *i.e.*, period of residence at a place where the session of the House or a meeting of the Committee is held or where any other business connected with his duties as a member is transacted for attending the session or sitting of the Committee or other business.<sup>266</sup> However, no member is entitled to the allowance unless he signs the Attendance Register.<sup>267</sup> The daily allowance is admissible during three days preceding the commencement of the session and three days succeeding the adjournment of the House *sine die* or for a period exceeding five days.<sup>268</sup> In the case of a sitting of the Committee or other business, the daily allowance is admissible during two days preceding the commencement of the sitting of the Committee or the business and two days succeeding its adjournment.<sup>269</sup>

#### *Travelling allowance for session/Committee meeting*

The travelling allowance admissible for a journey performed in India by a member from his usual place of residence to the place of duty and back for the purpose of attending a session of the House or a meeting of the Committee including Consultative Committee or for the purpose of attending to any other business connected with his duties as a member is at the following rates:

- (a) Journey by rail: An amount equal to one first class plus one second class fare for each such journey irrespective of the class in which the member actually travels;<sup>270</sup>
- (b) Journey by air: An amount equal to one and one-fourth of the air fare for each journey;<sup>271</sup>
- (c) Journey by steamer: An amount equal to one and three-fifths of the fare (without diet) for the highest class in the steamer for each such journey or part thereof;<sup>272</sup> and
- (d) Journey by road: A road mileage at the rate of rupees sixteen per Km. including the journey from and to the railway station, port or airport to and from a member's usual place of residence or residence at New Delhi or at the place of a meeting of the Committee.<sup>273</sup>

*Air journeys during a year*

A member is entitled to thirty-four single air journeys (*i.e.*, one air fare) performed by him either alone or along with spouse or any number of companions or relatives from any place in India to any other place in India during a year. The ‘Year’ begins with the date on which a member’s term of office commences and each of the subsequent years. Out of these 34 free air journeys, spouse or companion of a member is entitled to travel alone to a maximum of eight air journeys per year to visit the member.<sup>274</sup> If the number of journeys performed by any member by air is less than thirty-four in a year, the number of journeys not availed by the member will be carried over to the following year.<sup>275</sup> Air journeys performed in excess of thirty-four in a year, subject to a maximum of eight can be adjusted from the quota of thirty-four air journeys available for the next year.<sup>276</sup>

*Intermediate journey during session/Committee meetings*

If a member performs an intermediate journey for visiting any place in India in the midst of session or a meeting of a committee which is less than fifteen days, his entitlement is regulated in the following manner:

- (a) Journey by rail: A member is paid an amount equal to one first-class fare by mail train for each such journey or daily allowance which would have been admissible for the days of his absence from the session or place of meeting, whichever is less.
- (b) Journey by air: Air journey shall be adjusted from the quota of 34 single air journeys a year available to a member.

*Allowances during short intervals of session/sitting of parliamentary committees*

Where the interval between the adjournment of the House or a sitting of a committee and the reassembly of the House/the next sitting of the committee at the same place, does not exceed five days and the member stays at the place during the interval, he is paid daily allowance for that period. If he performs any journey during this period then he is paid travelling allowance as admissible for intermediate journey.<sup>277</sup>

When the interval between the adjournment of the House and its recommencement exceeds five days, a member is paid the following allowances:

- (i) Travelling allowance for return journey after the adjournment of the House;

- (ii) Travelling allowance for forward journey for attending the House upon its reconvening;
- (iii) Daily allowance for three days immediately succeeding the adjournment of the House if the member actually stays in Delhi during that period; and
- (iv) Daily allowance for three days immediately preceding the recommencement of the House if the member arrives three days in advance.

*Travelling allowance in case of postponement or sudden adjournment of House/Committee*

A member who arrives at the place where the session of the House or a sitting of a committee is held, without the knowledge about its postponement then the admissibility of travelling allowance is decided by the Chairman of the Rajya Sabha on the basis of facts of each case. For postponed meeting of a Consultative Committee the admissibility of travelling allowance is decided by the Minister of Parliamentary Affairs. No daily allowance, however, is admissible in such a case.<sup>278</sup>

*Travelling allowance for journey abroad*

Travelling allowance is admissible to a member if he, in the discharge of his duties outside India, performs such a journey, as per rules.<sup>279</sup>

*Rail travel facilities*

Every member on election/nomination is issued with an Identity Card-cum-Railway Pass. The Card is non-transferable. It entitles the member and his/her spouse to travel in first class air-conditioned or executive class at any time by any railway in India with one person to accompany in air-conditioned two-tier.

Until a member is provided with an Identity Card-cum-Railway Pass, he is entitled to an amount equal to one first class air-conditioned or executive class rail fare for any journey performed by him in connection with his duties as a Member of Parliament. Similarly a member who, on ceasing to be a member, surrenders his pass and performs a return journey by rail after attending session or committee meeting is entitled to an amount equal to one first class air-conditioned or executive class rail fare for that journey.<sup>280</sup>

*Travel facilities for spouse*

Every member on election/nomination is issued with a separate railway pass for his/her spouse. This entitles his or her spouse to travel in first

class air-conditioned or executive class in any train from the usual place of residence of the member to Delhi and back.<sup>281</sup> When Parliament is in session, spouse of the member is entitled to travel by air and partly by rail from the usual place of residence of the member to Delhi or back subject to the condition that the total number of such air journey shall not exceed eight in a year.<sup>282</sup> The journey can be undertaken after the issue of summons for the session and return journey can be performed at any time before the prorogation of such session.

#### *Accommodation facilities*

A member is entitled without payment of licence fee for housing accommodation in the form of a flat throughout his term of office. The accommodation is allotted by the House Committee which also decides about the entitlement of a member to a particular type of accommodation i.e., whether bungalow or a flat.

A member can retain the accommodation allotted to him for a maximum period of one month after his retirement or resignation. In the event of death of a member, his family can retain the accommodation on normal rent for a maximum period of six months from the date of demise of the member.<sup>283</sup>

#### *Electricity and water facilities*

Free supply of water and electricity is provided at the residence of a member upto a maximum of 50,000 units of electricity, 25,000 units each measured on light/power meters or pooled together, and 4000 kilolitres of water per annum.<sup>284</sup>

#### *Telephone facilities*

A member is entitled to have two telephone connections – one at his Delhi residence or office and another at any place in his State or constituency during his term. No installation or rental charges for those telephones are required to be paid by him. The first 1,00,000 local calls made from both the telephones together during a year are free. The trunk call bills of the member may be adjusted within the monetary equivalent of the ceiling of 1,00,000 local calls. Excess calls are adjustable against the next year's quota.<sup>285</sup>

Every member is also entitled to one additional telephone either at his residence in Delhi/New Delhi or at his usual place of residence or at the place selected by him within the State or in the State in which he resides and 50,000 free local calls during a year for internet connectivity purposes.<sup>286</sup>

Also no charges shall be payable by a member in respect of the registration and rental charges of one mobile phone provided by the Mahanagar Telephone Nigam Ltd. (MTNL) and another mobile phone provided by MTNL or Bharat Sanchar Nigam Ltd., on his request and the calls made by a member from such mobile phone shall be adjusted from the total free calls available to him.<sup>287</sup>

#### *Broadband Internet Service*

Members have been provided broadband internet facility with 1 Mbps speed in *lieu* of 10,000 local calls per annum, out of the quota of 1,50,000 free local calls per annum available to every member with unlimited free data download.<sup>288</sup>

As and when a member retires or ceases to be a member, all the telephone connections are disconnected with immediate effect. However, telephone connections provided to him while he was a member, may be allowed to be converted into his private account as permanent telephone connection under ‘Private Subscribers’ Category, provided that he has not already availed of a similar connection earlier as an MP/MLA/MLC etc. For the telephone connection, a member has to complete all the formalities as a general subscriber. In case of death of a member, his family can retain the telephone for two months.

#### *Medical facilities*

The Central Government Health Scheme (CGHS) as applicable to Class-I Officers of the Central Government in Delhi has been extended to Members of Parliament and their family Members as per the CGHS Rules.<sup>289</sup>

#### *Foreign exchange*

A member is entitled to get a foreign exchange worth rupees one lakh during his whole term for study tours abroad. This is released by the Secretariat on an application.<sup>290</sup>

#### *Pension to ex-member and family pension to spouse/dependent of the deceased member/ex-member*

An ex-member can get pension as per the Salary, Allowances and Pension of Members of Parliament Act, 1954. The current rate of pension is Rs. 20000 per month and Rs. 1500 per month for every year in excess of five years.<sup>291</sup> This pension is in addition to any other pension an ex-member may receive. The spouse or dependent of the deceased member/ex-member shall be entitled to a family pension equivalent to one-half of the pension which such member would have otherwise received.<sup>292</sup>

## NOTES AND REFERENCES

1. Ins. by Constitution (Sixteenth Amendment) Act, 1963.
2. Election Commission Not. No. S.O. 1111, 18.3.1968, Gaz. Ext. Pt. II s. 3(ii), Manual of Election Law, Vol. I.
3. R.P. Act, 1951, s. 36(2)(a).
4. Art. 84(c).
5. R.P. Act, 1951, s. 3, for the words "in that State or territory," the words "in India" substituted by R.P. (Amendment) Act, 2003.
6. R.P. Act, 1950, s. 19.
7. *Ravanna Subanna v. G.S. Kaggeerappa*, AIR 1954 SC 653; *Abdul Shakur v. Rikhab Chand*, AIR 1958 SC 52; *Guru Gobinda Basu v. Sankari Prasad Ghosal*, AIR 1964 SC 254; *Umrao Singh v. Darbara Singh*, AIR 1969 SC 262; *D.R. Gurushanthappa v. Abdul*, AIR 1969 SC 744; *Kanta v. Manak Chand*, AIR 1970 SC 694; *Shivamurthy Swami Inamdar*, etc. v. *Agadi*, 1971 (3) SC 870; *Bhagwandass Sehgal v. State of Haryana & Others*, AIR 1974 SC 2355; *Karbhari v. Shanker*, AIR 1975 SC 575; *Divya Prakash v. Kultar Chand Rana*, AIR 1975 SC 1067; *Madhukar v. Jaswant Chobbildas Rajani & others*, AIR 1976 SC 2283; *Biharilal v. Roshan Lal*, AIR 1984 SC 385; *Satrucharla v. Vyricherla*, AIR 1992 SC 1959; and *A.K. Subbaiah v. Ramakrishna Hegde*, AIR 1994 Kant. 35.
8. Parliamentary Committees - Joint Committee on Offices of Profit: An Introductory Guide, Lok Sabha Secretariat, New Delhi, May 2014, pp. 2-4.
9. 10 Rpt. JCOP-7 LS, para 10.5 and 10.6.
10. *Kanta v. Manak Chand*, AIR 1970 SC 694; and *Ibomcha v. Chandra Mani*, AIR 1977 SC 682.
11. *Bhagwandass Sehgal v. State of Haryana*, AIR 1974 SC 2355.
12. Coffee Act, 1942, s. 4(5).
13. Rubber Act, 1947, s. 4(8).
14. Tea Act, 1953, s. 4(3A).
15. Tobacco Board Act, 1975, s. 4(4A).
16. Spices Board Act, 1986, s. 3(4).
17. Wakf Act, 1995, s. 3.
18. Press Council Act, 1978, s. 7(3).
19. R.P. Act, 1951, s. 8(1)(a)-(k).
20. *Ibid.*, s. 8(2).
21. *Ibid.*, s. 8(3).
22. Supreme Court Judgment dated 10 July 2013 in Writ Petition (c) 490 of 2005 and 231 of 2005 declaring section 8(4) of R.P. Act, 1951 as *ultra vires* of the Constitution.
23. F. No. RS 10/2013-T; Not. No. RS 10/2013-T dated 21.10.2013.
24. Not. No. 21/4/2013/TO(B) dated 21.10.2013 issued by the Lok Sabha Secretariat.
25. F. No. RS 46/2014-T; Not. No. RS 46/2014-T dated 30.04.2014.
26. R.P. Act, 1951, s. 8A(1).
27. *Ibid.*, s. 9(1).
28. *Ibid.*, s. 9A.
29. *Ibid.*, s. 10.
30. *Ibid.*, s. 10A.
31. F. No. 10/91-T; and 10/96-T.
32. Art. 103 *read with* R.P. Act, 1951, s. 8A; and *Election Commission v. Saka Venkata Rao*, AIR 1953 SC 210.
33. Min. of Law & Justice (Legislative Department) Not. GSR No. 131(E) 1.3.85, Gaz. Ext. [II (i)], 1.3.1985.

34. Tenth Sch. para 2(1)(a) and 2(1)(b), read with expln. (a).
35. *Ibid.*, para. 2(2).
36. *Ibid.*, para. 2(3).
37. *Ibid.*, para. 2(1) expln. (b).
38. *Ibid.*, para. 4 and Constitution (Ninety-first Amendment) Act, 2003.
39. *Ibid.*, para. 4(2).
40. *Ibid.*, para. 4(1).
41. *Ibid.*
42. *Ibid.*, para. 4(2).
43. *Ibid.*, para. 5.
44. *Ibid.*, para. 6(1).
45. *Ibid.*, para. 6(2).
46. *Ibid.*, para. 7.
47. *Kihota Hollohon v. Zachilhu*, AIR 1993 SC 412.
48. Tenth Sch. para. 8.
49. F. No. 46/85-T.
50. Not. No. RS 46(ii)/86-T, 18.3.1986.
51. Gaz. Ext. Pt. I s. (i), 18.3.1986; and Bn. (II), 18.3.1986.
52. Members of Rajya Sabha (Disqualification on Ground of Defection) Rules, 1985, R. 3(1).
53. *Ibid.*, R. 3(1) and (2).
54. *Ibid.*, R. 3(2) and (3).
55. *Ibid.*, R. 3(4).
56. *Ibid.*, R. 3(5).
57. *Ibid.*, R. 4(1) and (2).
58. Members of Parliament (Disqualification on the Ground of Defection) Rules, 1985 R. 4(3). For summary of information see Bn. (II), 19.8.1986 and 10.8.1989.
59. *Ibid.*, R. 6.
60. *Ibid.*, R. 7(1), (2) and (3).
61. *Ibid.*, R. 7(4).
62. *Ibid.*, R. 7(5).
63. Bn. (II), 7.11.1989.
64. F. No. RS 46/89-T-Vol. IV.
65. Members of Rajya Sabha (Disqualification on Ground of Defection) Rules, 1985, R. 7(7).
66. *Ibid.*, R. 8.
67. Art. 80(4) and (5) read with R.P. Act, 1950, ss. 27A and 27H.
68. Inserted by R.P. (Amendment) Act, 2003.
69. See Chapter 2, *Supra*.
70. R.P. Act, 1950, s. 27G.
71. *Ibid.*, s. 27J.
72. R.P. Act, 1951, s. 12.
73. *Pashupati Nath Sukul v. Nem Chandra Jain & Others*, ELR Vol. LXXIV, pp. 83-93.
74. R.P. Act, 1951, s. 29.
75. *Ibid.*, s. 39.
76. *Ibid.*, s. 31.
77. *Ibid.*, s. 32.
78. *Ibid.*, s. 33(1) read with s. 39(2) Proviso (aa); 33(7)(d) as inserted by Act 21 of 1996.

79. R.P. Act, 1951, s. 39(2), *Proviso to cl. (aa)*.
80. *Ibid.*, s. 39(2), *Proviso (a) read with s. 152*.
81. *Pashupati Nath Sukul v. Nem Chandra Jain & Others*, ELR Vol. LXXIV, pp. 83-93.
82. *Pashupati Nath Singh v. Harihar Prasad Singh*, AIR 1968 SC 1064.
83. *Virji Ram Sutaria v. Nathalal Premji Bhanvadia*, AIR 1970 SC 765.
84. R.P. Act, 1951, s. 34(1)(a).
85. *Ibid.*, s. 34(2)
86. *Ibid.*, ss. 33(6) and 34(1), *Proviso*.
87. *Ibid.*, 1951., s. 36(2).
88. *Ibid.*, s. 36(4).
89. R.P. Act, 1951, s. 37(1).
90. *Ibid.*, s. 37(2).
91. *Ibid.*, s. 38.
92. *Ibid.*, s. 53(1) and (2).
93. *Ibid.*, s. 56.
94. *Ibid.*, s. 64.
95. *Ibid.*, s. 66.
96. *Ibid.*, s. 67.
97. *Ibid.*
98. *Ibid.*, s. 67A.
99. Conduct of Elections Rules, 1961, R. 85.
100. R.P. Act, 1951, s. 71.
101. *Ibid.*, ss. 147 and 151A.
102. *Ibid.*, ss. 100 and 101.
103. *Ibid.*, s. 81.
104. Krishnaswamy, K.V., *The Single Transferable Vote* (1946), p. 23.
105. Conduct of Elections Rules, 1961, R. 71(4).
106. *Ibid.*, R. 75(1).
107. *Ibid.*, R. 76.
108. *Ibid.*, R. 83 and Schedule.
109. *Ibid.*, R. 73(2).
110. *Ibid.*, R. 78.
111. *Ibid.*, R. 79(1).
112. *Ibid.*, R. 71(6) and (1).
113. *Ibid.*, R. 79(2) and (3).
114. *Ibid.*, R. 71(5).
115. *Ibid.*, R. 79(4)(a).
116. *Ibid.*, R. 71(3).
117. *Ibid.*, R. 79(4).
118. *Ibid.*, R. 79(5) to (7).
119. *Ibid.*, R. 80(1).
120. *Ibid.*, R. 80(2).
121. *Ibid.*, R. 80(3).
122. *Ibid.*, R. 80(5).
123. *Ibid.*, R. 80(6).
124. *Ibid.*, R. 81(1).
125. *Ibid.*, R. 81(2).

126. Conduct of Elections Rules, 1961, R. 81(3).
127. Art. 80(3).
128. *Ram Gopal Singh Sisodia v. Union of India through its Secretary & Ors.*, W.P. (C) 2942/2012, 19 December, 2012.
129. R.P. Act, 1951, s. 155(2).
130. F. No. 17/94-T.
131. R.P. Act, 1951, s. 154.
132. Art. 54 and Expln. thereto added by the Constitution (Seventieth Amendment) Act, 1992.
133. Art. 66(1).
134. For details, see Chapter 4.
135. Tenth Sch. para. 2(3).
136. C.S. Deb., 16.5.1952, c. 46.
137. H.P. Deb., (II), 6.6.1952, c. 1245-47.
138. *Ibid.*, 20.6.1952, c. 2237.
139. Report of the Joint Committee on Payment of Salary and Allowances to, and Abbreviations for, Members of Parliament, July 1952, mts.
140. *Ibid.*
141. *Ibid.*, para. 15.
142. Art. 83(1).
143. R.P. Act, 1951, s. 154(1).
144. *Ibid.*, s. 154(3).
145. *Ibid.*, s. 155(1).
146. R.P. Act, 1951, s. 155(2).
147. Min. of Law Not. No. F. 10(15)/52C, 3.4.1952, Gaz. Ext. [I(i)], 3.4.1952.
148. Min. of Law Not. No. SRO 1669, 6.9.1952, Gaz. Ext. [II(iii)].
149. Election Commission Order No. 35/52-Elect. III, 12.11.1952 and F. No. CS 35/52-L.
150. R.P. Act, 1950, s. 27-I, since repealed.
151. Election Commission Not. No. 35/52-Elec. III, 29.11.1952, Gaz. [I(ii)], 29.11.1952 and F. No. CS 35/52-L.
152. Andhra State Act, 1953, ss. 10, 10(2)(a) and (b).
153. Bn. (II), 15.12.1953 and 23.12.1953.
154. Min. of Law Not. SRO No. 2537, 1.11.1956, Gaz. [II(iii)], 3.11.1956.
155. States Reorganisation Act, 1956, ss. 24-26.
156. Bn. (II), 15.11.1956 and 20.11.1956.
157. *Ibid.*, 19.12.1956 and 21.12.1956.
158. Bombay Reorganisation Act, 1960, s. 9.
159. Punjab Reorganisation Act, ss. 10 and 11; and Bn. (II), 8.12.1966.
160. Report of the Election Commission for 1986 and 1987, p. 29.
161. First Annual Report of the Election Commission, 1983, pp. 50 and 56.
162. Report of the Committee on Electoral Reforms (1990), para. 13.
163. R.S. Deb., 25.2.1966, c. 1404-05.
164. *Ibid.*, 20.7.1982, c. 279-80.
165. Art. 102(1)(a).
166. Min. of Law, Justice & Company Affairs (Legislative Department) Not. S.O. No. 654(E), 8.9.1982; and Bn. (II), 29.9.1982.
167. Bn. (II), 18.3.2006; Shrimati Jaya Bachchan was re-elected from the State of Uttar Pradesh in June 2006. She made and subscribed oath and took her seat in the House on 24 July 2006.

168. Bn. (II), 15.5.1989, 28.7.1989; Bn. (I), 9.8.1989; and Bn. (II), 14.9.1989, 26.3.2008 and 4.7.2008.
169. R.P. Act, 1951, s. 68.
170. *Ibid.*, s. 69.
171. F. No. R.S. 18/5/62-L; cf, L.S. Bn. (II), 2.5.1996, declaring the seat of an elected member of the Lok Sabha vacant from the date of his election to the Rajya Sabha *i.e.*, 19.2.1996; the term of Office of that member in the Rajya Sabha, however, commenced on 10.4.1996.
172. R.P. Act, 1951, s. 70 *read with* Conduct of Elections Rules, 1961, R. 91.
173. R.S. Deb., 15.12.1956, c. 2545; and 17.12.1956, c. 2677.
174. *Ibid.*, 21.3.1966, c. 3885; and 22.3.1966, c. 3973.
175. F. No. RS/10/1998-T.
176. *Ibid.*
177. F. No. RS/10/2010-T.
178. F. No. RS/10/2014-T.
179. *Ibid.*
180. Prohibition of Simultaneous Membership Rules, 1950, R. 2.
181. Not. No. RS 10/86-T, 24.4.1986, Gaz. [II(i)], 24.4.1986.
182. Not. No. RS 10/88-T, 11.1.1988, Gaz. [I(i)], 11.1.1988.
183. Not. No. RS 10/89-T, 27.12.1989; and Gaz. [I(i)], 27.12.1989.
184. F. No. RS 10/1990-T.
185. *Ibid.*
186. *Ibid.*
187. F. No. RS 10/1996-T.
188. F. No. RS 10/1998-T.
189. F. No. RS 10/1999-T.
190. F. No. RS 10/2001-T.
191. *Ibid.*
192. *Ibid.*
193. *Ibid.*
194. F. No. RS 10/2002-T.
195. *Ibid.*
196. *Ibid.*
197. F. No. RS 10/2004-T.
198. *Ibid.*
199. F. No. RS 10/2005-T.
200. F. No. RS 10/2006-T.
201. *Ibid.*
202. F. No. RS 10/2007-T.
203. F. No. RS 10/2008-T.
204. F. No. RS 10/2009-T.
205. F. No. RS 10/2011-T.
206. F. No. RS 10/2013-T.
207. *Ibid.*
208. F. No. RS 10/2014-T dated 28.5.2014 and dated 30.5.2014.
209. F. No. RS 10/2014-T dated 3.11.2014 and F. No. RS 10/2015-T dated 12.1.2015.
210. R.S. Deb., 17.11.1964, c. 174-75; and 18.11.1964, c. 330-31, *see also* RS Deb., 15.3.1988, c. 217-22.

- 
- 211. R.P. Act, 1951, s. 100(1).
  - 212. *Ibid.*, s. 107(1).
  - 213. *Ibid.*, s. 116B(3).
  - 214. ELR Vol. 23, p. 171.
  - 215. ELR Vol. 26, p. 396.
  - 216. F. No. 24/74-T.
  - 217. E.L.R. Vol. 65, p. 285.
  - 218. Bn. (II), 29.8.1991.
  - 219. *Ibid.*, 27.7.2001.
  - 220. Art. 102(1).
  - 221. F. No. RS 10/2013-T.
  - 222. Art. 101(4).
  - 223. R.S. Deb., 22.3.1976, c. 78-80.
  - 224. F. No. 10/88-T.
  - 225. Bn. (I), 21.12.2000.
  - 226. *Ibid.*, 15.11.1976.
  - 227. F. No. R.S. 31/2005-CE.
  - 228. F. No. R.S. 31/2006-CE.
  - 229. Art. 59(1).
  - 230. Art. 66(2).
  - 231. Art. 158(1).
  - 232. F. No. RS 10/1990-T.
  - 233. *Ibid.*
  - 234. F. No. RS 10/1998-T.
  - 235. F. No. RS 10/2002-T.
  - 236. F. No. RS 10/2004-T.
  - 237. F. No. RS 10/2009-T.
  - 238. F. No. RS 10/2010-T.
  - 239. F. No. RS 10/2014-T.
  - 240. Art. 101(3)(a).
  - 241. F. No. RS 46/1989-T.
  - 242. *Ibid.*
  - 243. F. No. RS 46/2005-T.
  - 244. F. No. RS 46/2007-T.
  - 245. Art. 101(3)(b).
  - 246. R. 213(1).
  - 247. R. 213(2).
  - 248. R. 213(3).
  - 249. R. 213(4).
  - 250. F. No. RS 10/89-T.
  - 251. R. 213(5).
  - 252. *Ibid.*, Expln.
  - 253. R. 213(6).
  - 254. R.S. Deb., 18.4.1955, c. 4957.
  - 255. *Ibid.*, 17.8.1988, c. 257-58.
  - 256. Bn. (I), 19.4.1962.
  - 257. R.S. Deb., 10.4.1990, c. 4.

258. Bn. (II), 22.4.1996.
259. Art. 106.
260. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 9.
261. *Ibid.*, s. 3; substituted by Act 37 of 2010 w.e.f. 18.5.2009.
262. *Ibid.*, s. 3 *read with* s. 2(e).
263. *Ibid.*, s. 8 and the Members of Parliament (Constituency Allowance) Rules, 1986, R. 2; substituted by GSR 970(E) published in the *Gazette of India, Extraordinary* Part II, Section 3, Sub-section (i) dated 13.12.2010 w.e.f. 1.10.2010.
264. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 8. and the Members of Parliament (Office Expense Allowance) Rules, 1988, R. 3; substituted by GSR 972(E) published in the *Gazette of India, Extraordinary*, Part II, Section 3, Sub-section (i) dated 13.12.2010 w.e.f. 1.10.2010.
265. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 3; substituted by Act 37 of 2010 w.e.f. 1.10.2010.
266. *Ibid.*, s. 2(d).
267. *Ibid.*, s. 3, 1<sup>st</sup> *Proviso*.
268. *Ibid.*, s. 2(d)(i).
269. *Ibid.* s. 2(d)(ii)
270. *Ibid.*, s. 4(1)(a).
271. *Ibid.*, s. 4(1)(b).
272. *Ibid.*, s. 4(1)(c)(i).
273. *Ibid.*, s. 4(1)(c)(ii); substituted by Act 37 of 2010 w.e.f. 1.10.2010.
274. *Ibid.*, s. 5(2), 3<sup>rd</sup> *Proviso*.
275. *Ibid.*, s. 5(2), 2<sup>nd</sup> *Proviso*.
276. *Ibid.*, s. 5(2), 4<sup>th</sup> *Proviso*.
277. *Ibid.*, s. 7.
278. Members of Parliament (Travelling and Daily Allowances) Rules, 1957, R. 14.
279. Members of Parliament (Allowances for Journeys Abroad) Rules, 1960.
280. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 6.
281. *Ibid.*, s. 6B(2)(a).
282. *Ibid.*
283. Housing and Telephone Facilities (Members of Parliament) Rules, 1956, R. 2A.
284. *Ibid.*, R. 2(2).
285. *Ibid.*, R. 4(5).
286. *Ibid.*
287. *Ibid.*, R. 4(6).
288. Bn. (II), 9.4.2013.
289. Medical Facilities (Members of Parliament) Rules, 1959.
290. Bn. (II), 31.3.1993.
291. Salary, Allowances and Pension of Members of Parliament Act. 1954. s. 8A; substituted by Act 37 of 2010 w.e.f. 18.5.2009.
292. *Ibid.*, s. 8 (AC); substituted by Act 40 of 2006 w.e.f. 15.9.2006.

## CHAPTER-4

### **Presiding Officers of Rajya Sabha and other Parliamentary Functionaries**

#### **Vice-President *ex officio* Chairman**

##### *Provisions regarding Vice-President*

**A**rticle 63 of the Constitution provides that there shall be a Vice-President of India. Under article 64, he is made the *ex officio* Chairman of the Rajya Sabha. The provision relating to the Vice-President, being the *ex officio* Chairman of the Rajya Sabha, again occurs under the heading "Officers of Parliament."<sup>1</sup>

The Vice-President acts as the President during the vacancy caused by the death, resignation or removal of the President until a new President is elected and assumes office.<sup>2</sup> The Vice-President discharges the functions of the President when he is unable to act owing to absence, illness or any other cause until the President resumes his duties.<sup>3</sup> In the former event when a vacancy occurs, the new President has to be elected as soon as possible after, and in no case later than six months from the date of occurrence of the vacancy.<sup>4</sup> When the new President enters upon his office, the Vice-President reverts to his office. In the latter event, when a temporary vacancy occurs in the office of the President, the Vice-President discharges the functions till the President resumes his duties.

On the death of President Dr. Zakir Husain on 3 May 1969, the then Vice-President Shri V.V. Giri was sworn in to function as the acting President of India until 19 July 1969. Similarly when President Dr. Fakhruddin Ali Ahmed died on 11 February 1977, Vice-President Shri B.D. Jatti was sworn in to function as the acting President of India until 24 July 1977.

There have been many occasions when the Vice-President discharged the functions of the President owing to absence or illness of the President.

Vice-President Dr. S. Radhakrishnan discharged the functions of President Dr. Rajendra Prasad from 20 June 1960 to 5 July 1960, when he paid a State visit to the Soviet Union as "important State events during the next two weeks" required "formal Presidential assent". On another

occasion, Dr. Radhakrishnan was sworn in on 25 July 1961 to discharge the functions of the President upto 19 December 1961 due to illness of President Dr. Rajendra Prasad.<sup>5</sup>

Vice-President Dr. Zakir Husain discharged the functions of the President on two occasions when President Dr. Radhakrishnan had to undergo an eye operation in February 1964 and again in March 1965 (5 February 1964 to 21 February 1964 and 16 March 1965 to 18 April 1965).

Vice-President Shri. M. Hidayatullah discharged the functions of President Giani Zail Singh during his medical treatment abroad, from 6 October 1982 to 31 October 1982.

It may, however, be noted that in both the contingencies, *i.e.*, Vice-President acting as, or discharging the functions of the President, the Vice-President is referred to as acting as, or discharging the functions of, the President.

The President's Address to members of both Houses of Parliament assembled together was delivered by the Vice-President discharging the functions of the President on 10 February 1964 and the Motion of Thanks in respect thereof was moved accordingly on 12 February 1964.

The President's Address on 28 March 1977 was delivered by the Vice-President acting as the President and the Motion of Thanks in respect thereof was moved accordingly on 4 April 1977.

The 51<sup>st</sup> Session of the Rajya Sabha was prorogued on 2 April 1965 by Dr. Zakir Husain as the Vice-President discharging the functions of the President.

The Summoning Order for the 52<sup>nd</sup> Session of the Rajya Sabha was signed on 4 April 1965 by Dr. Zakir Husain as the Vice-President discharging the functions of the President.

The 68<sup>th</sup> Session of the Rajya Sabha was prorogued on 21 May 1969 by Vice-President Shri. V.V. Giri acting as President.

The Summoning Order for the 99<sup>th</sup> Session of the Rajya Sabha was signed on 22 February 1977 by Vice-President Shri. B.D. Jatti acting as President.

The Vice-President (Shri B.D. Jatti) acting as President made an Order on 24 March 1977 appointing a Chairman *pro tem* for the Rajya Sabha.<sup>6</sup>

The Vice-President (Shri M. Hidayatullah) discharging the functions of the President conveyed recommendations to the Rajya Sabha under article 117(3) of the Constitution in respect of some Bills.<sup>7</sup>

When the Vice-President acts as, or discharges the functions of, the President, he has all the powers and immunities of the President and is entitled to the same emoluments as the President;<sup>8</sup> however, during this period he cannot perform the duties of the office of the Chairman of the Rajya Sabha.<sup>9</sup>

The Vice-President is elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election is by secret ballot.<sup>10</sup>

Prior to 1961, the Vice-President was required to be elected at a joint sitting of both the Houses of Parliament. But when Dr. S. Radhakrishnan was elected unopposed in 1952 and 1957, no such sitting was held.

The requirement of a joint sitting was omitted by the Constitution (Eleventh Amendment) Act, 1961, as such requirement “seemed to be totally unnecessary and was also likely to cause practical difficulties.”<sup>11</sup>

The Vice-President cannot be a Member of Parliament or of a State Legislature and if any such member is elected, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.<sup>12</sup> No person is eligible for election as Vice-President unless he is a citizen of India, has completed the age of thirty-five years and is qualified to be elected as a member of the Rajya Sabha.<sup>13</sup> Such a person should not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.<sup>14</sup> The offices of the President, Vice-President, Governor, Union or State Minister are not offices of profit for this purpose.<sup>15</sup>

Detailed provisions regarding the Vice-Presidential election are contained in the Presidential and Vice-Presidential Elections Act, 1952, and the rules made thereunder. As per the established practice, the Secretary-General, Rajya Sabha or Lok Sabha is appointed by rotation as returning officer for a Vice-Presidential election.

For the first, second, fourth, sixth, eighth, tenth, twelfth and fourteenth Vice-Presidential elections, the Secretary/Secretary-General of Lok Sabha; for the third, fifth, seventh, ninth and thirteenth Vice-Presidential elections, the Secretary/Secretary-General of Rajya Sabha were appointed as returning officers. However, during the eleventh Vice-Presidential election the Secretary, Ministry of Parliamentary Affairs

was appointed the returning officer, which was a departure from the established practice of appointing the Secretary-General of the Rajya Sabha or Lok Sabha as returning officer.

The various stages of the election of the Vice-President are notified in the Official Gazette by the Election Commission. These are: the last date for making nominations, which is the fourteenth day after the date of publication of the notifications; the date for the scrutiny of nominations, which is a date immediately following the last date for making nominations; the last date for the withdrawal of candidatures, which is the second day after the date for scrutiny of nominations, and the date for poll, if necessary, which is a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures. If any of the days to be fixed, is a public holiday, then the next succeeding day which is not a public holiday is taken as the appropriate date for the purpose.<sup>16</sup>

The notification for election to fill a vacancy caused by the expiration of the term of office of the Vice-President is issued on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office of the outgoing Vice-President and the dates are so appointed that the election is completed at such time as would enable the newly elected Vice-President to assume office on the day following the expiration of the term of office of the outgoing Vice-President.<sup>17</sup> In any other case, the notification is required to be issued as soon as may be after the occurrence of a vacancy.<sup>18</sup>

Till 1974, only one elector as proposer and one elector as seconder were needed for a nomination paper for the Vice-President election and there was no requirement of deposit to be made. The Presidential and Vice-Presidential Elections Act, 1952, has been amended to provide that the nomination paper should be subscribed by at least twenty electors as proposers and at least twenty electors as seconds.<sup>19</sup> It is also provided that a candidate has to deposit Rs. 15,000/- for being considered as duly nominated candidate. Where a candidate is nominated by more than one nomination paper he has to make only one deposit.<sup>20</sup>

It has also been provided that no elector shall subscribe, whether as proposer or seconder, more than one nomination paper at the same election, and if he does, his signature shall be inoperative on any paper other than the one first delivered. Further, not more than four nomination papers can be filed by or on behalf of a candidate or accepted by the returning officer.<sup>21</sup>

The Vice-President holds office for a term of five years from the date on which he enters upon his office but he can resign by writing under his hand addressed to the President; he can also be removed from office by

a resolution passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha. At least fourteen days' notice of intention to move the resolution is necessary. A Vice-President continues to hold office notwithstanding the expiration of his term, until his successor enters upon his office.<sup>22</sup>

Every Vice-President before entering upon his office, makes and subscribes, before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form:

I, A.B. do swear in the name of God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.<sup>23</sup>

The following are the details of various Vice-Presidential elections held so far:

Sl. No.	Name of Vice-President elected	No. of contestants	Date of election	Term
1.	Dr. S. Radhakrishnan	Unopposed	25-4-1952	13-5-1952–12-5-1957
2.	Dr. S. Radhakrishnan	Unopposed	23-4-1957	13-5-1957–12-5-1962
3.	Dr. Zakir Husain	Two	7-5-1962	13-5-1962–12-5-1967
4.	Shri V.V. Giri	Two	6-5-1967	13-5-1967–3-5-1969
5.	Shri G.S. Pathak	Two	30-8-1969	31-8-1969–30-8-1974
6.	Shri B.D. Jatti	Two	27-8-1974	31-8-1974–30-8-1979
7.	Shri M. Hidayatullah	Unopposed	9-8-1979	31-8-1979–30-8-1984
8.	Shri R. Venkataraman	Two	22-8-1984	31-8-1984–24-7-1987
9.	Dr. Shanker Dayal Sharma	Unopposed	21-8-1987	3-9-1987–24-7-1992
10.	Shri K.R. Narayanan	Two	19-8-1992	21-8-1992–24-7-1997
11.	Shri Krishan Kant	Two	16-8-1997	21-8-1997–27-7-2002*
12.	Shri Bhairon Singh Shekhawat	Two	12-8-2002	19-8-2002–21-7-2007**
13.	Shri Mohammad Hamid Ansari	Three	10-8-2007	11-8-2007–10-8-2012
14.	Shri Mohammad Hamid Ansari	Two	7-8-2012	11-8-2012–till date

\*Died in office

\*\*Resigned

All doubts and disputes arising out of or in connection with the election of the Vice-President are inquired into and decided by the Supreme Court whose decision is final.<sup>24</sup> If the election of a person as Vice-President

is declared void by the Supreme Court, acts done by him in exercise of the powers and performance of the duties of his office on or before the decision of the Supreme Court are not invalidated because of that declaration.<sup>25</sup>

A petition calling in question Vice-Presidential election may be presented to the Supreme Court by any candidate at such election, or by ten or more electors joined together as petitioners, at any time after the date of publication of the declaration containing the name of the returned candidate at the election but not later than thirty days from the date of such publication.<sup>26</sup> The grounds for declaring the election of a returned candidate to be void are:

- (a) the offence of bribery or undue influence at the election committed by the returned candidate or by any person with the consent of the returned candidate;
- (b) the result of the election having been materially affected—
  - (i) by the improper reception or refusal of a vote; or
  - (ii) by any non-compliance with the provisions of the Constitution, or of the Presidential and Vice-Presidential Elections Act, 1952, or of any rules or orders made under that Act;
  - (iii) by reason of the fact that the nomination of any candidate (other than the successful candidate) who has not withdrawn his candidature, has been wrongly accepted; or
- (c) the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate has been wrongly accepted.<sup>27</sup>

The election of a person as President or Vice-President cannot be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.<sup>28</sup>

If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claims a declaration that he himself or any other candidate has been duly elected and the Supreme court is of the opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate to have been duly elected. But, the petitioner or such other candidate should not be declared to be duly elected, if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition has been presented calling in question his election.<sup>29</sup>

The Vice-President does not draw any salary *qua* Vice-President.<sup>30</sup> He draws his salary as Chairman of the Rajya Sabha. His salary and allowances are governed by the Salaries and Allowances of Officers of Parliament Act, 1953, and the rules made thereunder. Under that Act, the Chairman gets a salary of Rs. 1,25,000/- p.m. He is provided with a furnished residence free of charge throughout his term of office and for a period of one month immediately thereafter and is entitled to free medical facilities for himself and his family. Besides, when on official tour, he gets travelling and daily allowances as are admissible to a Cabinet Minister under the rules. The salary and allowances payable to the Vice-President in the capacity as Chairman are charged on the Consolidated Fund of India.<sup>31</sup> The Vice-President is also provided with a Secretariat to assist him in the discharge of his functions as Vice-President.

#### *Powers and functions as Chairman*

As the Presiding Officer, the Chairman of the Rajya Sabha is the unchallenged guardian of the prestige and dignity of the House. His impartial and fair judgement enhances the reputation and prestige of his office.

On 20 April 1987, before a short duration discussion regarding Government's decision to institute an inquiry into the involvement of commission agents in certain defence deals started, the Chairman, Shri R. Venkataraman announced: "From 15 January 1982, through the middle of June 1984, I was the Defence Minister. Therefore, I do not think it proper for me to preside over the debate." He, therefore, vacated the Chair and the proceedings were conducted by the Deputy Chairman.<sup>32</sup>

The Chairman is also the principal spokesman of the House and represents its collective voice to the outside world.

Communications from the President to the House are made to the Chairman.<sup>33</sup> When a message from the President, whether with respect to a Bill pending in Parliament or otherwise, is received by the Chairman, he reads it to the House and gives necessary directions in regard to the procedure that is to be followed for the consideration of matters referred to in the message and in giving those directions he can suspend or vary the rules to such extent as may be necessary.<sup>34</sup> Similarly, communications to the President are made through the Chairman in the form of a formal address after a motion has been made and carried by the House.<sup>35</sup> For instance, the Motion of Thanks on the President's Address to the two Houses of Parliament assembled together, after its adoption by the House, is conveyed to the President by the Chairman.

As the representative of the House to the outside world, the Chairman communicates the decisions of the House to the authorities concerned, requiring them to comply with the terms of such decisions. Similarly, the Chairman communicates to the House letters and documents addressed to him/her as Chairman, such as those relating to the rights and privileges of the House and its members.

On 21 April 1964, the Chairman informed the House about receipt of a notice from the Supreme Court in the matter of Special Reference (No. 1 of 1964) under article 143 of the Constitution relating to a controversy between the Uttar Pradesh Legislative Assembly and the Allahabad High Court.<sup>36</sup>

Again on 9 May 1974, the Chairman informed the House about receipt of a notice from the Supreme Court in the matter of Special Reference (No. 1 of 1974) under article 143 of the Constitution relating to Presidential election. The House agreed that no action need be taken by the Chairman on the notice.<sup>37</sup>

On 6 November 1987, the Chairman informed the House about receipt of a notice from the Supreme Court in the matter of the transfer petition of the Union of India seeking transfer of a writ petition filed by two Members of Parliament, challenging the validity of the Constitution (Fifty-second Amendment) Act, 1985, from the Delhi High Court to the Supreme Court.<sup>38</sup>

The Chairman also communicates messages received by him from foreign countries and legislatures.

On 19 May 1952, the Chairman read out messages of goodwill which had been received from the Parliaments of Sweden, Norway and Denmark, when the Rajya Sabha was duly constituted under the Constitution.<sup>39</sup>

He also issues warrants to execute the orders of the House, where necessary.

In pursuance of a resolution adopted by the House on 21 December 1967, sentencing a person who threw leaflets from the Visitors' Gallery on the floor of the House, to simple imprisonment till the conclusion of the session, the Chairman issued Warrant of Commitment of that person, addressed to the Superintendent, Tihar Jail, Delhi.<sup>40</sup>

In pursuance of the decision of the House taken on 18 March 1982, sentencing fourteen persons to simple imprisonment till 24 March 1982, for shouting slogans from the Visitors' Gallery, the Chairman issued fourteen separate Warrants of Commitment against the offenders concerned, addressed to the Superintendent, Tihar Jail, Delhi.<sup>41</sup>

However, in an instance of a visitor who shouted slogans and threw a *chappal* from the Visitors' Gallery on the floor of the House, whom the House had, by a resolution, sentenced to simple imprisonment till the conclusion of the session, the Warrant of Commitment was issued under the signature of the Deputy Chairman, who was presiding at the time the resolution was adopted.<sup>42</sup>

Under the Constitution, the Chairman exercises only a casting vote in the case of equality of votes.<sup>43</sup> However, if at any sitting of the House a resolution for the removal of the Chairman from his office is under consideration, he is not to preside at that sitting.<sup>44</sup> He cannot also vote at all on such resolution or on any other matter during such proceedings.<sup>45</sup> The Constitution also lays down certain powers and duties of the Chairman: he is empowered to adjourn the House or to suspend its sitting in the event of absence of quorum.<sup>46</sup> In the case of resignation of a member from the House, the Chairman is required not to accept the resignation, if from information received or otherwise, and after making such inquiry as he thinks fit, he is satisfied that such resignation is not voluntary or genuine;<sup>47</sup> under the Tenth Schedule to the Constitution, the Chairman determines the question as to disqualification of a member of the Rajya Sabha on ground of defection;<sup>48</sup> he also makes rules for giving effect to the provisions of the Schedule;<sup>49</sup> he is empowered to direct that any wilful contravention of the said rules should be dealt with in the same manner as a breach of privilege of the House;<sup>50</sup> and the Chairman may permit a member who is unable to express himself in Hindi or in English, to address the House in his mother tongue.<sup>51</sup>

When a member requested that he be permitted to speak in his mother tongue—Malayalam—as he was unable to speak effectively in English or Hindi, the Chair ruled:

Here is a gentleman who says he does not know any of the official languages, Hindi or English. Therefore, he wished to speak in Malayalam which is his mother tongue. The Chair has got the power to allow it provided there is a translation which is submitted to us. We have to take such exceptional cases also into account and our Constitution does take those cases into account.<sup>52</sup>

However, on an occasion, a member started speaking in Maithili language. On an objection taken, the Deputy Chairman ruled that a member could speak only in any of the languages mentioned in the Eighth Schedule besides Hindi and English.<sup>53</sup>

After the introduction of the arrangements for simultaneous interpretation of speeches made in the House, a member may now speak in the House in any of the languages mentioned in the Eighth Schedule to the Constitution after giving an hour's notice.<sup>54</sup>

The Chairman does not take part in the deliberations of the House except in the discharge of his duties as the Presiding Officer. However, on a point of order raised or on his own, he may address the House at any time on a matter under consideration with a view to assisting members in their deliberations.

On 19 May 1952, when the House was about to discuss the Motion of Thanks on the President's Address, the Chairman made observations in connection with the procedure to be adopted in respect of amendments to the Motion.<sup>55</sup>

On another occasion, the Chairman announced the procedure to be followed for the clause-by-clause consideration of the Constitution (Forty-fifth Amendment) Bill, 1978, as passed by the Lok Sabha.<sup>56</sup>

Various powers are conferred on the Chairman under the Rules of Procedure of the Rajya Sabha in connection with the proceedings of the House, Committees and such other matters as questions, calling attention, motions, resolutions, amendments to Bills, authentication of Bills, petitions, papers to be laid on the Table, personal explanations, etc. The Chairman may also, if he thinks fit, call a sitting of the House before the date or hour to which it has been adjourned, or at any time after the House has been adjourned *sine die*, but not prorogued by the President.<sup>57</sup> The Chairman's consent is required to raise a question of breach of privilege of the House. He can also, *suo motu*, refer any such question to the Committee of Privileges for examination, investigation and report.<sup>58</sup>

Parliamentary Committees, whether set up by the Chairman or by the House, work under his guidance. He appoints their Chairmen and issues such directions to them as may be necessary in respect of the procedure and work. He nominates members to various Standing Committees and the Department-related Parliamentary Standing Committees. He himself is the Chairman of the Business Advisory Committee,<sup>59</sup> the Rules Committee<sup>60</sup> and the General Purposes Committee.<sup>61</sup>

It is the right of the Chairman to interpret the Constitution and rules so far as matters in or relating to the House are concerned, and no one can enter into any argument or controversy with the Chairman over such interpretation. The Chairman's rulings constitute precedents which are of a binding nature. The Chairman's rulings cannot be questioned or criticised and to protest against the ruling of the Chairman is contempt of the House and the Chairman. The Chairman is not bound to give reasons for his decisions. The rulings are generally delivered by the Chairman on the floor

---

of the House but in some contingency his ruling may be read out to the House by the Deputy Chairman, on his request.

Certain notices of breach of privilege were given by members against the Minister of Finance and the editor of a daily in the matter of Maharashtra Trusts. The Chairman's ruling was read out to the House by the Deputy Chairman on his behalf. While doing so the Deputy Chairman also read out the letter addressed to him by the Chairman in the matters.<sup>62</sup>

Maintenance of order in the House is a fundamental duty of the Chairman and he has been invested with all the necessary disciplinary powers under the rules for the purpose, such as checking irrelevance or repetition in the speech of a member,<sup>63</sup> intervening when a member makes an unwarranted or defamatory remark by asking him to withdraw the same. The Chairman may also order expunction of any unparliamentary or undignified words used in the debate,<sup>64</sup> or order that anything said by a member without his permission would not go on record. He may direct any member guilty of disorderly conduct to withdraw from the House<sup>65</sup> and name a member for suspension if he disregards the authority of the Chair and persists in obstructing the proceedings of the House.<sup>66</sup> He may also adjourn or suspend the sitting of the House in case of grave disorder.<sup>67</sup>

It is customary for the Chairman to make appropriate references in the House on solemn occasions like anniversary of Universal Declaration of Human Rights by U.N., Martyrs Day, Quit India Day, anniversary of bombing of Hiroshima, Nagasaki, etc. Similarly, the Chairman may place before the House motions or resolutions on matters of national or international importance to express the sentiments of the House on occurrences or events of great importance, or on a tragedy or happy event. Such motions or resolutions are unanimously adopted without discussion. As per the established practice in the Rajya Sabha, generally the Chairman alone makes obituary references on behalf of the House, though in some exceptional cases, leaders of various parties/groups in the Rajya Sabha may also associate themselves with the sentiments expressed by the Chairman. The Chairman delivers farewell address when members retire on completion of their term of office in the Rajya Sabha and welcomes the newly elected members. Whenever any distinguished foreign visitors or members of parliamentary delegations from abroad are present in the Special Box to watch the proceedings of the House, the Chairman welcomes them to the country on behalf of the House.<sup>68</sup>

The Chairman is empowered under the rules to correct patent errors in a Bill after it has been passed by the House and to make such other

changes in the Bill consequential on the amendments accepted by the House.<sup>69</sup> When a Bill is passed by the Houses and is in possession of the Rajya Sabha, the Chairman authenticates the Bill with his signature before presenting it to the President for assent.<sup>70</sup>

All matters not specifically provided for in the rules and all questions relating to the detailed working of the rules are regulated in such manner as the Chairman may, from time to time, direct.<sup>71</sup>

The Rajya Sabha Secretariat functions under the control and direction of the Chairman.<sup>72</sup> Admission to various galleries including Press Gallery, is regulated under the direction of the Chairman. The Chairman is responsible for the protection of the rights of members and for ensuring that all reasonable amenities are provided to them. If a member is arrested or detained, the fact is required to be reported immediately to the Chairman by the concerned authority.<sup>73</sup> The same is applicable when a member is released.<sup>74</sup> No member can be arrested, nor can a legal process, civil or criminal, be served on him, within the precincts of the House without obtaining the Chairman's permission, whether the House is in session or not.

Some statutes also confer duties on the Chairman. For instance, rules made under the Salary, Allowances and Pension of Members of Parliament Act, 1954, do not take effect until they are approved and confirmed by the Chairman and the Speaker.<sup>75</sup> Under the Judges (Inquiry) Act, 1968, the Chairman has to constitute a Committee, upon receipt of a motion for the removal of a Judge of the Supreme Court or of High Court, for investigation into the grounds on which the removal of a Judge is prayed for.<sup>76</sup> The rules made under the Act are also required to be approved and confirmed by the Chairman and the Speaker.<sup>77</sup> Under the Press Council Act, 1978, the Chairman is one of the members of the Committee which nominates the Chairman of the Press Council.<sup>78</sup>

The Chairman nominates members of the Rajya Sabha on various bodies such as courts of Banaras Hindu University, Jawaharlal Nehru University, North-Eastern Hill University, Pondicherry University, University of Hyderabad, Anjuman (Court) of Jamia Millia Islamia, Haj Committee, Press Council of India, Samsad (Court) of Visva Bharati, National Council for Teacher Education, etc. set up under the relevant statutes. The Chairman also nominates members of the Rajya Sabha on other bodies like General Assembly of the Indian Council for Cultural Relations, General Body of the Central Social Welfare Board, General Council of the School of Planning and Architecture, Hindi Shiksha Samiti, Institute of Constitutional and Parliamentary Studies, etc.<sup>79</sup>

The Chairman may also, if there is a general consensus in the House, make an inquiry into a matter which was raised on the floor of the House or appoint a Committee of the House in respect thereof.

On 10 August 1978, the House adopted a motion recommending to the Government to seek the guidance and advice from a Committee to be appointed by the Chairman or appoint two Commissions of Inquiry regarding allegations of corruption made against members of families of the Prime Minister and the former Home Minister. In an announcement made on 17 August 1978, the Chairman, *inter alia*, observed that the appointment of a Committee by him would depend on the indication from the Government as to which one of the two alternatives mentioned in the motion was acceptable to the Government. The Prime Minister announced on 24 August 1978 that the Government did not accept either of the two alternatives. The Chairman, therefore, announced on 29 August 1978 in the light of the Prime Minister's statement, that the motion did not stipulate that the Committee should be appointed by the Chairman even if the Government declined to accept any of the two alternatives mentioned in the motion. He was, therefore, of the opinion that in the circumstances, he was not called upon to appoint such a Committee in terms of the said motion.<sup>80</sup>

On 3 March 1987, award of a highway construction contract in Jordan to a private company was the subject of starred question number<sup>87</sup> and the interpellations thereon, the thrust of which was that the private company had been favoured at the cost of a public sector company. The Minister of Commerce and other members desired that the matter be looked into by the Chairman. The Chairman agreed and accordingly inquired and gave a detailed ruling in the matter.<sup>81</sup>

On 2 August 1995, procurement of railway wagons was the subject of starred question number 42. There was a consensus that the Chairman might constitute a Committee of the House to examine the issue. The Minister of Railways also agreed. The Chairman accordingly announced the constitution of a Committee of fifteen members.<sup>82</sup>

### **Deputy Chairman**

The Deputy Chairman is elected by the Rajya Sabha from amongst its members.<sup>83</sup> The election of the Deputy Chairman is held on such date as the Chairman may fix and the Secretary-General sends to every member notice of this date.<sup>84</sup> At any time before noon on the day preceding the date so fixed, any member may give notice in writing addressed to the Secretary-General of a motion that another member be chosen as the Deputy Chairman of the Rajya Sabha. The notice is required to be seconded by a third member and accompanied by a statement of the member proposed

that he/she is willing to serve as Deputy Chairman, if elected.<sup>85</sup> A member cannot propose or second more than one motion.<sup>86</sup> The dates fixed for receipt of notice and election and the procedure are also notified in a Bulletin.<sup>87</sup>

Notices of motions so received are included in the list of business for the day on which the election of the Deputy Chairman is to take place, in the order in which they are received in the Notice Office in point of time. The form of the motion is:

That A.B. be chosen as the Deputy Chairman of the Rajya Sabha. The election takes place immediately after Question Hour.

A member in whose name a motion stands in the list of business may, when called, move the motion or not move the motion. In the latter case he confines himself to a mere statement to that effect. The motions which have been moved and duly seconded are put by the Chairman one by one in the order in which they have been moved and decided, if necessary, by division. If any motion is carried the Chairman declares that the member proposed in the motion which has been carried, is chosen as the Deputy Chairman of the Rajya Sabha, without putting other motions.<sup>88</sup>

On 17 December 1969, before the motions for election of the Deputy Chairman could be taken up, some members wanted that there should be a secret ballot and the Chairman should waive the rule. The Chairman ruled out the point on the basis of existing rule, practice and procedure. As regards rule 7, since it had not provided for a ballot, the Chairman held that voting could not be by ballot. It had all along been the practice to apply the rule as it stood and no practice could weigh against an existing rule. If the practice had to be changed, it should be done by resorting to proper procedure for changing the rule. The Chairman also did not give his consent to suspend the relevant rule. He, therefore, ruled that motions were listed according to the time of their receipt as per the practice of determining the order of motions.<sup>89</sup>

On 29 July 1980, some members raised a matter regarding the mode of election of the Deputy Chairman which was to be held the next day. They wanted that the election should be held by secret ballot and requested the Chair to waive the rules.<sup>90</sup> The Chairman assured that he would consider the matter or as he put, “I will have to, as Judges say, take it under advisement.” The next day, he gave the following ruling:

I have considered the precedents and the rules. There is one precedent of 1969 and one of 1977. In the latter, the hon’ble Shri Ram Niwas Mirdha was unanimously elected and no question arose.

In 1969, there were two rival candidates and the procedure of rule 7 in Chapter III read with rule 252 was followed. On the basis of this precedent, I should follow the same procedure. Hon'ble members have, however, requested that I should act under rule 267... It is said that the election is by a motion and this rule enables a rule to be suspended.

It is true that rule 7 in Chapter III under which the election is held uses the word "motion", but rule 7 sub-rules (3) and (4), which are sought to be waived cannot be waived. Sub-rule (3) cannot be waived because a member must move his motion; otherwise there will be no election. He can only withdraw his motion. There is no escape from this. In so far as sub-rule (4) is concerned, it provides that each motion in turn shall be put to the vote of the House and adds, "if necessary by division." The procedure of division follows first a voice vote, next a head count and then recording of votes by going into the Lobbies, or by operating the automatic vote-recorder. If sub-rule (4) of rule 7 is to be suspended, then rules 252 to 254 must also be suspended.

The lawyers here—and there are many here—will recall a famous observation of a Law Lord which is used everyday in courts and which expresses the rule in extremely elegant words. It is: "When the law prescribes a certain mode for doing a thing, it must be done in that way or not at all: other modes of doing are necessarily prohibited." The step to step procedure of division must be followed, unless I or anyone has the jurisdiction to make new rule. None of us can enact an *ad hoc* rule. Therefore, the existing rule alone must be followed and no other mode of compliance can be devised.

Thus, according to the precedent and the reason of the rules, the election shall be according to the procedure prescribed.<sup>91</sup>

After election, the Deputy Chairman is felicitated by the Chairman and thereafter he/she is conducted to the Chair by the Leader of the House and the Leader of the Opposition. Then various sections of the House make congratulatory references to which the Deputy Chairman responds.

The following are the details of the various elections of the Deputy Chairman held so far:

Name of the Deputy Chairman elected	Date of commencement of Session	Date of Notice/ Bulletin Part-II	Date of Election	Term
Shri S. V. Krishnamoorthy Rao	13.5.1952	28.5.1952	31.5.1952* (Saturday)	31.5.1952–2.4.1956 <sup>#</sup>

Name of the Deputy Chairman elected	Date of commencement of Session	Date of Notice/ Bulletin Part-II	Date of Election	Term
Shri S. V. Krishnamoorthy Rao	23.4.1956	9.4.1956	25.4.1956*	25.4.1956–1.3.1962 <sup>%</sup>
Shrimati Violet Alva	17.4.1962	15.4.1962	19.4.1962*	19.4.1962–2.4.1966 <sup>#</sup>
Shrimati Violet Alva	14.2.1966	4.4.1966	7.4.1966*	7.4.1966–16.11.1969 <sup>^</sup>
Shri B. D. Khobragade	17.11.1969	8.12.1969	17.12.1969 <sup>@</sup>	17.12.1969–1.4.1972 <sup>#</sup>
Shri Godey Murahari	13.3.1972	10.4.1972	13.4.1972*	13.4.1972–2.4.1974 <sup>#</sup>
Shri Godey Murahari	22.4.1974	22.4.1974	26.4.1974*	26.4.1974–20.3.1977 <sup>%</sup>
Shri Ram Niwas Mirdha	28.3.1977	28.3.1977	30.3.1977*	30.3.1977–2.4.1980 <sup>#</sup>
Shri Shyam Lal Yadav	23.7.1980	26.7.1980	30.7.1980 <sup>@</sup>	30.7.1980–2.4.1982 <sup>#</sup>
Shri Shyam Lal Yadav	26.4.1982	24.4.1982	28.4.1982**	28.4.1982–29.12.1984 <sup>%</sup>
Dr. (Smt.) Najma Heptulla	17.1.1985	23.1.1985	25.1.1985*	25.1.1985–20.1.1986 <sup>^</sup>
Shri M. M. Jacob	20.2.1986	20.2.1986	26.2.1986**	26.2.1986–22.10.1986 <sup>^</sup>
Shrimati Pratibha Devisingh Patil	4.11.1986	12.11.1986	18.11.1986**	18.11.1986–5.11.1988 <sup>^</sup>
Dr. (Smt.) Najma Heptulla	2.11.1988	10.11.1988	18.11.1988*	18.11.1988–4.7.1992 <sup>#</sup>
Dr. (Smt.) Najma Heptulla	8.7.1992	6.7.1992	10.7.1992 <sup>@</sup>	10.7.1992–4.7.1998 <sup>#</sup>
Dr. (Smt.) Najma Heptulla	27.5.1998	6.7.1998	9.7.1998*	9.7.1998–10.6.2004
Shri K. Rahman Khan	5.7.2004	19.7.2004	22.7.2004	22.7.2004–2.4.2006
Shri K. Rahman Khan	10.5.2006	9.5.2006	12.5.2006	12.5.2006–2.4.2012
Prof. P.J. Kurien	8.8.2012	14.8.2012	21.8.2012	21.8.2012–till date

<sup>\*</sup>Elected unopposed<sup>\*\*</sup>Contesting candidates–2; decided by voice vote<sup>%</sup>Elected to Lok Sabha<sup>@</sup>Contesting candidates–2; decided by voice vote<sup>#</sup>Retirement<sup>^</sup>Resigned

The Deputy Chairman holds office from the date of his/her election and vacates the office if he/she ceases to be a member of the House.<sup>92</sup> He/She may at any time resign his/her office by writing under his/her hand

addressed to the Chairman.<sup>93</sup> The Deputy Chairman may also be removed from his/her office by a resolution of the House passed by a majority of all the then members of the House. Fourteen days' notice is required of the intention to move such a resolution.<sup>94</sup> As and when the Deputy Chairman is elected, resigns or otherwise vacates the office, a notification to that effect is published in the Gazette.

The Deputy Chairman is a whole-time officer of the House. Under the Salaries and Allowances of Officers of Parliament Act, 1953, and the rules made thereunder, the Deputy Chairman gets a salary of Rs. 50,000/- p.m., constituency allowance of Rs. 45,000/- p.m., sumptuary allowance of Rs. 1000/- p.m. and daily allowance of Rs. 2,000/- per day during the whole of his/her term as such officer. The Act also makes provision regarding the rates of travelling and daily allowances and other facilities such as accommodation, telephone, medical, etc. to which the Deputy Chairman is entitled. The salary of the Deputy Chairman is charged on the Consolidated Fund of India and is not subject to the vote of the House.<sup>95</sup> The Deputy Chairman occupies the tenth place in the order of precedence along with Ministers of State of the Government of India, Members of the erstwhile Planning Commission and the Deputy Speaker of the Lok Sabha. Dr. (Smt.) Najma Heptulla was conferred a cabinet rank on her election as the President of the Inter-Parliamentary Union in 1999.<sup>96</sup> The Deputy Chairman occupies seat no. 229 in the Chamber on the left side of the Chair. Prof. P.J. Kurien was conferred the status of a Union Cabinet Minister in the Table of Precedence as personal to him for the duration of his term of office *i.e.* upto 1 July 2018.<sup>97</sup>

While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of the President, the duties of the office are performed by the Deputy Chairman.<sup>98</sup>

During the absence of the Chairman from any sitting of the House, the Deputy Chairman acts as Chairman.<sup>99</sup> He/She has the same powers as the Chairman when presiding over a sitting of the House and all references to the Chairman in the Rules of Procedure and Conduct of Business in the Rajya Sabha are deemed to be references to the Deputy Chairman when he/she so presides.<sup>100</sup> A ruling given by the Deputy Chairman settles the matter before the House and cannot be reopened by anyone. However, whenever, a point raised in the House needs some consideration, it is open to the Deputy Chairman to refer or reserve the same for the consideration and decision of the Chairman.

The Chairman of the Rajya Sabha is also the Vice-President of India and has thus dual functions and responsibilities. Obviously, he cannot preside

over the sitting of the House all the time. Usually, the Chairman presides during the Question Hour or forenoon of the sitting and thereafter usually the Deputy Chairman takes over.

During the consideration of the Essential Services Maintenance Bill, 1981 when the House sat from 11.00 a.m. on 17 September 1981, till it adjourned at 4.43 a.m. on 18 September 1981, except for a lunch recess of 40 minutes, the Deputy Chairman presided all through for a stretch of over 10 hours with only two short coffee breaks.

On important occasions and debates such as Constitution (Amendment) Bills, etc., however, the Chairman may, if convenient, preside over the sitting of the House.

On 21 April 1987, the Chairman presided over the proceedings of the House for the entire sitting when the House debated the Bofors issue.

As occasions may demand, the Deputy Chairman also holds informal meetings for consultation amongst leaders of various parties and groups in the Rajya Sabha in regard to the business then pending in the House.

On a suggestion of the Prime Minister, the Deputy Chairman held a meeting with the leaders to consider whether a J.P.C. should be set up to probe into the excise issue.<sup>101</sup>

On another occasion, the Deputy Chairman held a meeting to decide about the business to be disposed by the House after the resignation of the Government.<sup>102</sup>

The Deputy Chairman presides during the absence of the Speaker and the Deputy Speaker from any joint sitting of the Houses of Parliament.<sup>103</sup>

The Deputy Chairman can speak in the House, take part in its deliberations and vote as a member on any question before the House, but he/she can do so only when the Chairman is presiding.

On 1 August 1954, the Deputy Chairman, Shri S.V. Krishnamoorthy Rao participated in the discussion on the Central Silk Board (Amendment) Bill, 1952, while the Chairman was in the Chair.

When the Deputy Chairman is in the Chair, he/she cannot vote except in the event of equality of votes.<sup>104</sup>

As per convention, the Deputy Chairman does not sponsor Bills, resolutions, etc., nor does he/she table questions.

Dr. (Smt.) Najma Heptulla, a member introduced the Delhi Rent Control (Amendment) Bill, 1983, on 29 April 1983. She was elected Deputy Chairman on 25 January 1985. The Bill was thereafter removed from the list of pending private members' Bills.<sup>105</sup>

However, on 8 March 1996, the Deputy Chairman, Dr. (Smt.) Najma Heptulla moved a resolution regarding status and well-being of women, in the context of ‘International Women’s Day’, while the Chairman was in the Chair, who proposed the resolution which was adopted by the House.

The Deputy Chairman is a member of the Business Advisory Committee,<sup>106</sup> the Rules Committee<sup>107</sup> and the General Purposes Committee.<sup>108</sup> If the Chairman, who is also the Chairman of these Committees, is for any reason unable to preside over any meeting of any of these Committees, the Deputy Chairman acts as the Chairman of that meeting.<sup>109</sup>

Until 1981, the Deputy Chairman was not a member of the Business Advisory Committee or the Rules Committee. However, as a convention and practice he/she used to be invited to attend the meetings of these Committees as a special invitee. The Rules Committee recommended that the Deputy Chairman should be made a member of these Committees and the strength of the Business Advisory Committee be increased from 10 to 11 and that of the Rules Committee from 15 to 16, for the purpose. The relevant rules were amended accordingly.<sup>110</sup>

The Report of the Rules Committee is presented to the House by the Deputy Chairman when generally the Chairman is in the Chair. However, on 14 February 1995, the Deputy Chairman presented the Seventh Report of the Rules Committee while presiding from the Chair.

If the Deputy Chairman is a member of any other parliamentary committee, he/she is appointed as the Chairman of the Committee.<sup>111</sup>

Since 1958 the Deputy Chairman is nominated as a member of the Committee of Privileges and so appointed as the Chairman of that Committee.

Only in 1969, the Deputy Chairman was not a member of that Committee, so another member (Shri M.C. Setalvad), headed the Committee.

The Deputy Chairman has also been nominated a member of the Committee on Provision of Computers to Members of Rajya Sabha from March 1997 till April 2012 and was so appointed as the Chairman of that Committee. Besides, the Deputy Chairman has been nominated as a member of the Committee on Member of Parliament Local Area Development Scheme since September 1998 and is so appointed as Chairman of the Committee.

The Deputy Chairman was also appointed the Chairman of the Joint Committees of the Houses of Parliament on the following Bills:

- (i) Children Bill, 1959 (Shri S.V. Krishnamoorthy Rao)

- (ii) Limitation Bill, 1962 (Shrimati Violet Alva)
- (iii) Foreign Marriage Bill, 1963 (Shrimati Violet Alva)
- (iv) Press Council Bill, 1963 (Shrimati Violet Alva)
- (v) Central Industrial Security Force Bill, 1966 (Shrimati Violet Alva)
- (vi) Monopolies and Restrictive Trade Practices Bill, 1967 (Shrimati Violet Alva)
- (vii) Wakf Bill, 2010 (Shri K. Rahman Khan)

The Deputy Chairman (Shrimati Violet Alva) was also appointed as the Chairman of the Committee set up to recommend Draft rules of procedure under clause (1) of article 118 of the Constitution.

Under the Protection of Human Rights Act, 1994, the Deputy Chairman is one of the members of the Committee to recommend the appointment of the Chairperson and other members of the National Human Rights Commission set up under that Act.<sup>112</sup>

#### ***Chairman pro tem***

When the offices of both the Chairman and the Deputy Chairman are vacant, the duties of the office of the Chairman are performed by such member of the Rajya Sabha as the President may appoint for the purpose.<sup>113</sup> The member so appointed is known as the Chairman *pro tem* and this nomenclature distinguishes him from the *ex officio* Chairman. For the first time in the Rajya Sabha when the Vice-President (Shri B.D. Jatti) was acting as the President and the post of Deputy Chairman held by Shri Godey Murahari having fallen vacant on 20 March 1977, consequent upon his election to the Lok Sabha, the Vice-President acting as President made the following Order on 24 March 1977:

WHEREAS the Vice-President is acting as the President and the office of Deputy Chairman of the Council of States is also vacant:

NOW, THEREFORE, in exercise of the powers conferred upon me by clause (1) of article 91 of the Constitution of India, I hereby appoint Shri Banarsi Das, a member of the Council of States, to perform the duties of the office of Chairman of the Council of States until the Deputy Chairman shall have been chosen by the said Council.<sup>114</sup>

The 100<sup>th</sup> Session commenced on 28 March 1977. At that sitting, only formal business of making obituary references and laying of papers on the Table was transacted.<sup>115</sup> The sitting of the House fixed for 29 March 1977, was cancelled on account of *Ram Navami*.<sup>116</sup> The election of the

Deputy Chairman took place on 30 March 1977. Thereafter, the *pro tem* Chairman vacated the office.<sup>117</sup> There was no Question Hour on any of these days as the session was called at short notice.<sup>118</sup>

### **Panel of Vice-Chairmen**

The Chairman, from time to time, nominates from amongst the members of the House, a panel of not more than six Vice-Chairmen. In the absence of the Chairman and the Deputy Chairman, one of them presides over the House.<sup>119</sup>

The first panel which was to consist of four members was nominated by the Chairman on 16 May 1952 (*i.e.*, three days after the first sitting of the Rajya Sabha). The Chairman informed the House that he had nominated three members to the panel of Vice-Chairmen with one vacancy unfilled. He observed:

We have said that there would be a panel of Vice-Chairmen since the President of this Assembly is called Chairman. So it is said the Council will have a panel of Vice-Chairmen... Well, in the House of the People they have a panel of Chairmen.<sup>120</sup>

The panel consisted of Acharya Narendra Deva, Shri Mukand Lal Puri and Begum Aizaz Rasul. Acharya Narendra Deva had not made oath/affirmation till then. However, by a cable to the Chairman, he had consented to serve as a Vice-Chairman.<sup>121</sup> Thereafter, the general practice has been to reconstitute/nominate the panel fully from time to time.

Until the end of 1981, the panel of Vice-Chairmen consisted of four members. The Rules Committee recommended that the strength of the panel should be increased to six and in so recommending, the Committee observed: "It has been brought to the notice of the Committee that the present strength of the panel of four Vice-Chairmen is not sufficient as sometimes, especially when the House has prolonged sittings, none of the four Vice-Chairmen is available for presiding."<sup>122</sup> The Committee on Rules presented its Third Report to the House on 2 December 1981 and the Report was adopted by the House on 24 December 1981.

In 1992, however, the panel consisted of five members. Sixth member was inducted later.<sup>123</sup>

It has also happened sometimes that in view of the withdrawal or resignation or retirement of a member from the panel, it had to be reconstituted more than once in the same year.<sup>124</sup>

In 1997, there was an occasion when the panel consisted of more than six members. During the 180<sup>th</sup> Session, the Chairman, Rajya Sabha, nominated two additional members to the existing panel. The new panel which was constituted by the Chairman on 1 August 1997 consisted of eight members.<sup>125</sup>

In nominating members to the panel of Vice-Chairmen, the Chairman gives consideration to the strength of various parties in the House and as per convention, selects some members from the opposition parties/groups for nomination to the panel. The Chairman may also consult the leaders of political parties/groups for the purpose before making a final choice. However, there is one instance when a nominated member was nominated to the panel of Vice-Chairmen. On 21 June 2005, Shri Fali S. Nariman, a nominated member was nominated to the panel of Vice-Chairmen.

There have been some occasions when a Vice-Chairman has presided at the commencement of a sitting in the absence of the Chairman and the Deputy Chairman.<sup>126</sup> On one occasion, the Vice-Chairman presided over a sitting of the House continuously for over five hours and before adjourning the House *sine die* (119<sup>th</sup> Session) put it humorously: "If I would have known that my fate would be this, I would have been absent."<sup>127</sup>

The Vice-Chairman, when presiding over a sitting of the House, has the same powers as the Chairman when so presiding.<sup>128</sup> He is, however, free to participate fully in all discussions in the House. As per the established convention, members of the panel of Vice-Chairmen are invited as special invitees to the meetings of the Business Advisory Committee. They are also nominated to the General Purposes Committee.

A Vice-Chairman while presiding over a sitting of the House cannot vote in the first instance, and has to exercise a casting vote in the case of an equality of votes. There has been so far only one instance when the Vice-Chairman exercised a casting vote in the case of an equality of votes.<sup>129</sup>

On 5 August 1991, a member (belonging to the ruling party) moved a resolution disapproving the Code of Criminal Procedure (Amendment) Ordinance, 1991. After discussion on the Ordinance and the Bill replacing it, the member sought leave of the House to withdraw the resolution. The Vice-Chairman proposed the question whether the member had the leave of the House to withdraw the resolution. When an opposition member dissented, the resolution was put to the vote of the House.<sup>130</sup> When the count was taken, thirty-nine members were for the Ayes and equal number for the Noes. The Vice-Chairman exercised the casting vote in favour of the resolution, i.e., along with the opposition for the disapproval of the Ordinance. It was the first time in the history of our Parliament that the Chair exercised a casting vote under article 100 of the Constitution.<sup>131</sup>

A Vice-Chairman holds office until a new panel of Vice-Chairmen is nominated.<sup>132</sup> The same member may also be renominated. If a Vice-Chairman resigns his office, another member may be nominated in his place.<sup>133</sup>

On one occasion, certain derogatory remarks were made against the Vice-Chairman. Before adjourning the House *sine die*, (67th session), the Vice-Chairman observed, “The Chair has felt hurt and as a measure to vindicate the position of the Chair, I hereby announce my resignation from the panel of Vice-Chairmen.”<sup>134</sup> He was, however, later renominated to the reconstituted panel.<sup>135</sup>

### **Non-panel member presiding**

When neither the Chairman nor the Deputy Chairman nor a Vice-Chairman is present to preside, such other member as may be determined by the House acts as the Chairman.<sup>136</sup> The practice is that the outgoing Presiding Officer requests a member to take the Chair with the approval of the House. Such a member continues to preside temporarily until the Deputy Chairman or a Vice-Chairman becomes available to preside. In other words, such a member cannot preside when a Vice-Chairman is present in the Chamber.

Recourse to the provision contained in article 91(2) of the Constitution was taken for the first time on 18 March 1987, when the Deputy Chairman said, “Before we take up the next item, I have an announcement to make. If the House agrees, I will request Shri Sukul to preside in my absence, as none of the members of the panel is present in the House just now.” A member responded by saying, “We welcome it.”<sup>137</sup>

There have also been instances when non-panel members presided over the proceedings of the House in the absence of the Deputy Chairman and the members of the panel of Vice-Chairmen with the permission of the House.<sup>138</sup>

### **No appeal against the decision of Deputy Chairman/Vice-Chairman**

As already stated, the Deputy Chairman or a member of the panel of Vice-Chairmen when presiding has the same powers as the Chairman when presiding over the sitting of the House.<sup>139</sup> It has been consistently held that no appeal lies to the Chairman against a ruling given by the Deputy Chairman or any other member presiding over a sitting of the House in the absence of the Chairman. The ruling given from the Chair settles the matter before the House and cannot be reopened.

On 31 March 1967, when the Minister of External Affairs was piloting the Armed Forces (Special Powers) Continuance Bill, 1967, a point of order was raised whether he could do so and not the Minister of Home Affairs since Nagaland was an integral part of India. The Vice-Chairman ruled out the point of order stating that the matter had been finally decided that the Ministry of External Affairs should deal with it.<sup>140</sup> On 3 April 1967, when the member again wanted to raise the same point of order before the Chairman, he ruled, “If a matter has been disposed of by one presiding officer... another presiding officer will not deal with it”.<sup>141</sup>

On 2 December 1968, the Deputy Chairman ruled that the motion to consider the Banking Laws (Amendment) Bill, 1968, as reported by the Select Committee and an amendment to recommit the Bill to the Committee should be discussed together. When a member suggested that the matter be sent to the Chairman for ruling, the Deputy Chairman observed, “For the present I am conducting the House.”<sup>142</sup> The matter was again raised on 3 December 1968. The Chairman observed:

I cannot be revising the rulings of the gentleman or lady who is sitting in this Chair... I would like to honour the ruling of the Deputy Chairman or the Vice-Chairman. Whoever sits in my seat has the same status and the same privileges as the Chairman; and I would certainly not set up a convention where the Chairman would over-rule the Deputy Chairman or the Vice-Chairman.<sup>143</sup>

On another occasion, the Vice-Chairman ordered, “Nothing on this point would go on record.”<sup>144</sup> On 1 July 1980, a member raised the matter questioning the right of the Chair to order any part of proceedings of the House off the record. The Chairman observed:

I must stand by the ruling given by the Vice-Chairman who was in the Chair. It is as good a ruling as given by me. If I were to begin revising those rulings, then the work will never be finished and there will be lot of trouble.<sup>145</sup>

On 22 December 1980, the House continued to sit beyond mid-night and a point of order against the continued sitting was ruled out by the Deputy Chairman who was presiding at that time.<sup>146</sup> At the next sitting on 23 December 1980, when some members sought to raise the matter, the Chairman observed, “When the Deputy Chairman sits in this Chair he is ‘me’ and I cannot sit in judgment over his action; otherwise, everyday I will have to be hearing appeals, revisions, reviews and what not.”<sup>147</sup>

However, whenever a point raised in the House needs some consideration or involves application of precedents or study, it is open to the Deputy Chairman or the Vice-Chairman to reserve the matter for the consideration

and decision of the Chairman, as observed by the Chairman on an occasion:

As we do in the Supreme Court, in courts everywhere, if I sit on a division bench, I can decide it. But we say, no, I would reserve it for a bigger bench. Really speaking, when the Deputy Chairman or the Vice-Chairman reserves something for me, they think that it is a matter important enough for me to know and to decide. I think that is a very legitimate operation...<sup>148</sup>

On 2 July 1980, the Chairman had permitted members to raise a matter regarding situation arising out of failure to discharge constitutional responsibility under article 178 to elect Speakers of Legislative Assemblies of U.P. and Rajasthan. Objection was taken to the jurisdiction of the House to discuss the matter and the propriety of admitting it for a mention. The Vice-Chairman reserved the matter for Chairman's consideration.<sup>149</sup> The Chairman gave a ruling the next day.<sup>150</sup>

During the discussion on the Assam Budget and the related Appropriation Bill on 25 August 1981, a point of order was raised about the non-laying of the Assam (Vote on Account) Appropriation Ordinance promulgated by the Governor of Assam on 1 April 1981, to incorporate the demands voted by the Assembly which was adjourned *sine die* and later prorogued before the Appropriation Bill could be passed by that Assembly. The contention of some members was that after Assam was brought under the President's Rule, the Ordinance ought to have been laid on the Table of the Houses of Parliament, under article 213 of the Constitution. The Deputy Chairman ruled that it was not necessary.<sup>151</sup> The Bill was returned to the Lok Sabha. However, the next day, the matter was raised again in the House before the Chairman. The Chairman ruled:

I do not and cannot express an opinion on the disputed points so far raised for three simple reasons. One, whatever is decided by the Chairman for the time being in the Chair binds the House; I have no appellate or revisionary powers; and there will be no end to things if I interfere with the rulings from the Chair. The second reason is even more potent. When the matter was on, the Deputy Chairman could have conferred with me or other colleagues of ours. But now the matter has passed into quite a different stage, what we lawyers call, this House is *functus officio*, it has finished with its work. The Bill has been returned to the Lok Sabha. We cannot recall it. Our House has finished with it. Therefore, the Bill must stand as it has been dealt with in this House. Some other tribunal, if you want to go to another tribunal, may be able to rule on your contention, but no one in this House can rule upon what

has been done in this House yesterday. The third reason is that there is a pendency of proceedings in the High Court. Some points are being agitated in parts; more points may probably be annexed, I, therefore, do not think it is necessary for me to give a ruling on what has been said up till now.

The Chairman, however promised to examine the limited questions whether in similar circumstances occurring in future the Ordinance must be laid on the Table of the House and whether the Ordinance in question should still be laid on the Table of the House.<sup>152</sup> The Chairman accordingly delivered a ruling on 8 September 1981.

### **Chairmen of Parliamentary Committees**

The Chairman of a Parliamentary Committee (hereinafter referred to in this part as Committee Chairman) is appointed by the Chairman from amongst the members of the Committee. In the Rajya Sabha, the offices of Committee Chairmen are shared by ruling and opposition parties by informal arrangement and consultations. This facilitates the Chairman's task of appointing Committee Chairmen. The Chairman, Rajya Sabha is the Chairman of three Committees—Business Advisory Committee, Committee on Rules and General Purposes Committee. If the Deputy Chairman is a member of any other Committee, he/she is invariably appointed the Chairman of that Committee, for instance, the Committee of Privileges. In the case of Joint/Select Committees on Bills initiated in the Rajya Sabha, the Chairman may be a member who does not belong to the ruling party. The following are the instances of members not belonging to the ruling party who were appointed Chairmen of various Committees:

Shri Yogendra Sharma (CPI)—Chairman, Joint Committee on the Indian Penal Code (Amendment) Bill, 1970;

Shri Prakash Veer Shastri (Ind.)—Chairman, Joint Committee on the Central and other Societies (Regulation) Bill, 1972;

Prof. A.R. Wadia (Nom.)—Chairman, Joint Committee on the Delhi Primary Education Bill, 1960;

Shri Jairamdas Daulatram (Nom.)—Chairman, Joint Committee on the Banaras Hindu University (Amendment) Bill, 1964

Dr. M.S. Adiseshiah (Nom.)—Chairman, Joint Committee on the Visva Bharati (Amendment) Bill, 1978;

Shri Era Sezhiyan (Janata Party)—Chairman, Select Committee on the Chit Funds Bill, 1982.

If a Committee Chairman resigns, or is, for any reason unable to act, the Chairman appoints any other member of the Committee as a Committee Chairman in his/her place. In the absence of the Committee Chairman from

any sitting of the Committee, the Committee chooses another member to act as the Chairman for that meeting.<sup>153</sup>

The Committee Chairman presides over the meetings of the Committee and has various duties, functions and powers in respect of the proceedings and functioning of the Committee as the Chairman has in respect of the proceedings of the House. The Committee Chairman appoints Chairman/ Convener of a sub-Committee, which the Committee may decide to set up. He fixes the date and time for holding the sittings of the Committee. If at any time fixed for any sitting of the Committee, or at any time during any such sitting, there is no quorum, he/she may either suspend the sitting until there is quorum or adjourn the sitting to some future day.

Rule 74(3) regarding Select Committee on Bills provides that when a Select Committee has adjourned for want of quorum on two successive dates fixed for meeting of the Committee, the Committee Chairman has to report the fact to the House. There has been only one instance so far when such a report has been made by way of a statement by the Chairman of the Committee. The Chairman of the Joint Committee of the Houses on the Shipping Agents (Licensing) Bill, 1987, (Shri B.A. Masodkar) made a statement regarding adjournment of the meetings of the Committee for want of quorum.<sup>154</sup>

Any procedural matter arising in the Committee is decided by the Committee Chairman. In case of doubt, he may, if he thinks fit, refer the point to the Chairman for decision. In the deliberations of the Committee, if there is an equality of votes on any matter, the Committee Chairman does not vote in the first instance but has only a casting vote.<sup>155</sup> Minutes of the sittings of the Committee are approved by the Committee Chairman and its report is signed by him, on behalf of the Committee.<sup>156</sup> If in the opinion of the Committee Chairman, a minute of dissent of a member of the Committee to be appended to its Report contains words, phrases or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order such words, etc. to be expunged from the minutes of dissent.<sup>157</sup> The Report of the Committee is presented to the House by the Committee Chairman, or in his absence by any member of the Committee.<sup>158</sup>

Rule 91(2) provides that in presenting a report of the Select Committee on a Bill, the Committee Chairman, if he makes any remarks, should confine himself to a brief statement of fact. On occasions the Committee Chairman have while presenting reports of the Committee of Government Assurances stated about the progress of fulfilment of assurances.<sup>159</sup>

A Chairman of a Parliamentary Committee (other than a Select or Joint Committee on a Bill or any other *ad hoc* Committee) is exempted

from payment of any charges for local calls made from the telephone installed at his residence in Delhi or New Delhi. This exemption is in addition to the exemption in respect of telephone charges admissible to him as a member.<sup>160</sup> He is also entitled to travelling and daily allowances at the rate admissible to a Member of Parliament when he attends to work connected with the Committee.<sup>161</sup>

### **Leader of the House**

The Leader of the House is an important parliamentary functionary who, like Presiding Officers, Leader of the Opposition and Whips, facilitates members' participation in debates effective and meaningful. The genesis of the office may be traced to the practice obtaining in the House of Commons in U.K. where the member of the Government who is responsible to the Prime Minister for the arrangement of the Government business is known as the Leader of the House. It is not a statutory office nor is the Leader of the House formally appointed by the Crown. Usually he/she holds that office alongwith another office.<sup>162</sup>

The Leader of the House "suggests, and in a great degree fixes, the course of all principal matters of business, supervises and keeps in harmony the action of his colleagues, takes the initiative in matters of ceremonial procedure and advises the House in every difficulty as it arises."<sup>163</sup> The details of the arrangement of Government business are settled, subject to his control, by the Chief Whip and the Leader of the House announces the business for the following week normally every Thursday after questions.

The Leader of the House should be conscious of five responsibilities: to the Government, to the Government's own supporters on the back benches, to the Opposition, to the House as a whole and to the individual Minister incharge.<sup>164</sup> He should, within reason, be accessible to both sides of the House. His relations with the Government Whips should be close, cordial and cooperative. He should keep in mind the duty of the Government to promote all reasonable facilities for the House to debate matters about which it is genuinely concerned and must regard himself not only as a member of the Government but as one of the principal guardians of the rights of the House as a whole.<sup>165</sup> He moves procedural motions about the business of the House from time to time, expresses the sense of the House on formal occasions, recommends to the Government about the stand it should take on private members' motions and Bills. He has, therefore, to be usually present either in the House or in his room in order that a responsible decision may be taken as to the management of Government business. At the same time, the Leader of the House is more than a

manager. He is not merely the leader of his party and the leader of the Government, but also the Leader of the House. In some respects, he takes the place of the Speaker. In short, when the House speaks as a corporate body, he speaks on its behalf. He is an active representative on behalf of the House on events of national or international importance.<sup>166</sup>

The Page Committee appointed by the Presiding Officers in 1968, made the following observations regarding the duties and functions of the Leader of the House:

He should be present in the House for most of the time and during the Question Hour and thereafter, at the beginning of the normal business of the House. His foremost duty is to assist the Speaker in the conduct of the business. He should be at all time prepared to intervene in the discussions, respond to the demands of the Opposition in the matter of giving opportunity for debate, fixing time and dates for discussion, control unruly behaviour of members and help the Speaker in arriving at decisions in regard to matters before the House. If the Leader of the House is unavoidably absent or otherwise busy, he should nominate a Deputy Leader who should in the absence of the Leader of the House perform the above functions at any time. Thus either the Leader or the Deputy Leader should be present in the House.<sup>167</sup>

Rule 2(1) of the Rules of Procedure and Conduct of Business in the Rajya Sabha defines the Leader of the House to mean the Prime Minister, if he is a member of the House, or a Minister who is the member of the House and nominated by the Prime Minister to function as the Leader of the House. Although this definition was incorporated in the Rule book only in 1981 by an amendment adopted in the House on 24 December 1981, the office of the Leader of the House in the Rajya Sabha existed since its inception in 1952. The earliest reference to the Leader of the House is to be found in the Rajya Sabha proceedings of 21 May 1952, when the Leader of the House (Shri N. Gopalaswamy Ayyangar) laid on the Table of the House a copy of the first report of the Finance Commission and memorandum of action taken thereon.<sup>168</sup> About a year later, again, the Leader of the House (Shri C.C. Biswas) laid on the Table a statement of the estimated receipt and expenditure of the Railways (Railway Budget) (without Railway Minister's speech) on behalf of the Minister of Railways who was to speak in the other House.<sup>169</sup>

The Leader of the House was granted leave of absence from the meetings of the House, on 24 November 1952.<sup>170</sup> Few days later, a member mentioned that the Leader of the House was hardly ever present in the House and it should consider the matter seriously.<sup>171</sup> Again

after a couple of days, the matter relating to the absence of the Leader (acting Leader, Shri C.C. Biswas) was raised in the House. It was pointed out that during that session, the attendance of the Leader had not been for more than two hours. The member concerned suggested that someone else should be appointed, if the member acting for the Leader was not able to be present.<sup>172</sup> [On 11 February 1953, the Prime Minister made a reference to the passing away of Shri Ayyangar.]

As a matter of convention, if one of the members who is to make oath/affirmation is the Leader of the House, he is called first to do so.

Shri N. Gopalaswamy Ayyangar, Shri C.C. Biswas, Shri Jaisukhlal Hathi and Shri Pranab Mukherjee, who were Leaders of the House were called first to make oath/affirmation. In the case of Shri Mukherjee, immediately after he took oath, the Chairman announced Shri Mukherjee's nomination as the Leader of the House by the Prime Minister.<sup>173</sup>

On 24 May 1996, the Chairman announced about the appointment of Shri Sikander Bakht as the Leader of the House. He also announced that he had recognised Shri S.B. Chavan as the Leader of the Opposition in the Rajya Sabha. Thereafter, he called Shri Sikander Bakht to make and subscribe oath. After him, Shri S.B. Chavan was called to do so. Rest of the members made and subscribed oath after them on that day.<sup>174</sup>

On 23 March 1998, the Chairman announced that he had recognised Dr. Manmohan Singh as the Leader of the Opposition in the Rajya Sabha and on 5 July 2004, the Chairman announced and recognised Shri Jaswant Singh as the Leader of the Opposition in the Rajya Sabha and accordingly called him first to make oath/affirmation. After him rest of the members made and subscribed oath/affirmation on that day.<sup>175</sup>

The Leader of the House occupies the first seat in the Chamber at the right side of the Chair. He is available for consultation to the Presiding Officer. Under the rules, the Leader of the House is consulted by the Chairman in regard to the arrangement of Government business in the House,<sup>176</sup> allotment of days or allocation of time for discussion on the President's Address,<sup>177</sup> private members' business on any day other than Friday,<sup>178</sup> discussion on no day-yet-named motions,<sup>179</sup> short duration discussions,<sup>180</sup> and consideration and return of a Money Bill.<sup>181</sup> He is also consulted by the Chairman in the matter of adjournment or otherwise of the House for the day in the case of death of an outstanding personality, national leader or international dignitary.<sup>182</sup>

The Leader of the House suggested that the House (which had been adjourned the previous day on account of Shri V.V. Giri's death) be adjourned on that day (next day) when the late Shri Giri's cremation was to take place. The House agreed.<sup>183</sup>

On a number of occasions the obituary references on the demise of important personalities, were initiated by the Leader of the House; for instance, on the death of Dr. Rajendra Prasad, Shri G.B. Pant, Shri Jawaharlal Nehru, Shri Lal Bahadur Shastri, Dr. Zakir Husain, Dr. Fakhruddin Ali Ahmed, Shri Jagjivan Ram and Chaudhary Charan Singh.<sup>184</sup>

On the death of Shri Jawaharlal Nehru, Dr. Zakir Husain and Dr. Fakhruddin Ali Ahmed, condolence resolutions were also moved by the Leader of the House.<sup>185</sup>

When a member suggested that the House should be adjourned on account of the death of a former member of the Lok Sabha and the Rajya Sabha as was done in the Lok Sabha, the Leader of the House explained the practice of the House regarding making obituary references. The House did not adjourn.<sup>186</sup>

As a matter of convention, the Leader of the House is generally consulted when a motion for suspension of a member from the service of the House is moved. There have been instances when the Leader of the House himself has moved such motions.<sup>187</sup>

The Leader of the House plays an important role in the matter of privileges of the House and its members. Under rule 167 as it existed before 1964, after leave to raise a question of privilege was granted by the House, the question could be referred to the Committee of Privileges on a motion being made by the Leader of the House to that effect. In 1964, the rule was amended so as to enable any other member also to move such a motion in the absence of the Leader of the House.<sup>188</sup> For instance, the Leader of the House moved motions on 9 September 1966, 5 June 1967 and 7 September 1970, to refer the questions of privilege to the Committee of Privileges.<sup>189</sup> The Leader of the House has also moved motions for contempt of the House committed by persons who threw leaflets from Visitors' Gallery on the floor of the House<sup>190</sup> or shouted slogans from there<sup>191</sup> or threw a *Chappal* on the floor of the House.<sup>192</sup>

The seat of a member who has remained absent for sixty or more consecutive days without the permission of the House, under article 101(4) of the Constitution, is declared vacant on a motion by the Leader of the House. He may, however, delegate his functions in this behalf to any member of the House.<sup>193</sup>

The seat of Shri Barjinder Singh Hamdard, who had absented himself from all sittings of the House for a period of more than sixty days, was declared vacant in terms of clause (4) of article 101 of the Constitution of India on 21 December 2000. In case of Shri Hamdard, the Leader of the House delegated his functions to Shri Pramod Mahajan, the then Minister of Parliamentary Affairs.<sup>194</sup>

Since 1981, the Leader of the House was invariably a member of the Business Advisory Committee. However, from 1996 onwards, the Leader of the House is not a Member of the Business Advisory Committee but is invited to the meetings of the Committee as a Special Invitee. Although the present practice is that the announcement regarding the Government business for the next week is made by a Minister in the Ministry of Parliamentary Affairs, there have been many instances in early sixties in the Rajya Sabha when the Leader of the House had announced the Government business himself or the Minister of Parliamentary Affairs had done so expressly on behalf of the Leader of the House.<sup>195</sup> The Leader of the House is also nominated to the General Purposes Committee, as its member.

The Leader of the House deals with procedural matters relating to the business of the House and advises it in every difficulty as it arises.

The Leader of the House (Shri N. Gopalaswamy Ayyangar) intervened to spell out the scope of amendments to the Motion of Thanks on the President's Address.<sup>196</sup>

There was a long discussion in the Rajya Sabha in regard to continuance of three Ministers after they ceased to be members on their retirement from the Rajya Sabha. In the course of the discussion some members had raised a point regarding political morality involved in the issue. The Leader of the House assured that he would convey the feelings and sentiments of members to the Prime Minister.<sup>197</sup>

There was a day-long discussion in the Rajya Sabha regarding facilities to be accorded to the Leader of the Opposition who was recognised for the first time. The Leader of the House promised to convey the views of the members to the Government and expedite the decision.<sup>198</sup>

When some members sought to move a motion to suspend Question Hour, the Leader of the House (Shri S.B. Chavan) requested them not to press it in view of the previous day's discussion on the Ayodhya issue.<sup>199</sup>

When there was a privilege matter against the Government on the ground of obstructing the Committee on Public Undertakings by not making available relevant files on HSD deal and the Chairman suggested

that a rule could be framed to remove whatever anomalies existed in regard to the membership of the Rajya Sabha on the Committee, the Leader of the House stated that a mutually acceptable satisfactory solution could be found in this regard. That defused the matter.<sup>200</sup>

When members complained about the delay in getting replies to special mention matters, the Leader of the House assured his cooperation to get the replies as early as possible.<sup>201</sup>

When members demanded that the Rajya Sabha should also have a Committee on Papers Laid on the Table, the Leader of the House responded favourably to the suggestion.<sup>202</sup>

Whenever, Committees of the Rajya Sabha are reconstituted, the Leader of the House takes initiative by calling an informal meeting of leaders of parties/groups in the Rajya Sabha to decide about the allocation of Committee membership/chairmanship amongst themselves. This facilitates the task of the Chairman in deciding to nominate members/appoint Chairmen to various Committees.

In his day to day activities, the Leader of the House acts as the Leader of his party or concerned Minister of the Government with which the office of the Leader of the House is combined.

In the years from 1952 to 1959, the Leader of the House replied to debates on the Motion of Thanks. In 1961, the Minister of Law and in 1964, the Minister of Home Affairs replied on behalf of the Leader of the House who was unwell.

In 1979 and 1991, the Leader of the House (Shri K.C. Pant and Shri Yashwant Sinha, respectively) informed the House about the resignations of the Government and requested the Chair to adjourn the House *sine die* and for the day, respectively.<sup>203</sup>

On 15 April 1999, Shri Sikander Bakht, Minister of Industry and Leader of the House made a suggestion that in view of the Motion of Confidence being discussed in Lok Sabha on 15, 16 and 17 April 1999, the House may be adjourned till Monday, the 19 April 1999 and Dr. Manmohan Singh, Leader of the Opposition agreed to the proposal. The Chairman, after taking the sense of the House adjourned the House till Monday, the 19 April 1999.<sup>204</sup>

As occasions demand, the Leader of the House acts as the spokesman and representative of the whole House. The chief occasions for his doing so are when the House as a whole desires to define its position on an issue or in relation to the other House or to express feelings, sense or sentiments on some event or happening, etc.

Objection was taken in the Lok Sabha regarding the Rajya Sabha discussing the Budgets first. During the course of a discussion on the issue in the Rajya Sabha, the Leader of the House (Shri M.C. Chagla) explained the position and while asserting that the Rajya Sabha had every right to discuss the Budget as the Lok Sabha had under the Constitution, he appealed to the House to try to avoid any friction or conflict with the other House.<sup>205</sup>

Similarly, on the proposal to scrutinise the budget estimates of the Rajya Sabha, the Leader of the House (Shri M.C. Chagla) spelt out principles which should be borne in mind if any change was to be made in the existing procedure in that behalf. He offered to convey to the Speaker the wish of the Rajya Sabha in the matter.<sup>206</sup>

The Leader of the House moved resolutions:

- (i) expressing sense of relief about the safety of the Prime Minister in an attack in Colombo;<sup>207</sup>
- (ii) condemning killings in Assam;<sup>208</sup>
- (iii) condemning demolition and desecration of Babri Masjid;<sup>209</sup>
- (iv) Destruction of Statues of Buddha and Buddhist shrines in Bamiyan (Afghanistan) by Taliban Regime.<sup>210</sup>
- (v) Storming of the estate and precincts of the State Legislature of Orissa by a mob of persons allegedly belonging to the VHP and the Bajrang Dal.<sup>211</sup>

The Leader of the House thus performs all-pervading role in the functioning of the House. Naturally, therefore, the House holds him in admiration and affection and is always unanimous in upholding his dignity.

For instance, in 1952, the then Leader of the House, Shri N. Gopalaswamy Ayyangar, had asked for leave of absence as he was unwell. While one member opined that he did not need the leave of the House, another member expressed good wishes “for the earliest recovery of our Leader of the House.”<sup>212</sup>

On a later occasion, in the case of the Leader of the House, Shri G.B. Pant, the Chairman made these observations after Question Hour: “I should like to express our joy, Mr. Pant, at seeing you back in your seat as the Leader of the House after your recent illness. I hope you will not over-strain yourself.” The Leader of the House thanked the Chairman.<sup>213</sup>

In the famous Income-tax (Amendment) Bill case, the Leader of the House (Shri C.C. Biswas) was called to be present in the other House, the Rajya Sabha passed a resolution directing the Leader of the House not to present himself in any capacity whatsoever in the other House.<sup>214</sup>

On an occasion, a member moved an amendment to a motion for election to the Committee on the Welfare of Scheduled Castes and Scheduled Tribes so as to set up a separate Committee of the Rajya Sabha for the purpose and stated that the amendment was in consonance with the assurance given by the Government in that behalf. The Leader of the House denied that any such assurance was given. The Chairman observed: "The Leader of the House has said just now that there was no assurance given on behalf of the Government and you must take it as correct."<sup>215</sup>

In the Rajya Sabha the following members have been the Leaders of the House since 1952:

Name	Period
1. Shri N. Gopalaswami Ayyangar	May 1952 to Feb. 1953
2. Shri Charu Chandra Biswas	Feb. 1953 to Nov. 1954
3. Shri Lal Bahadur Shastri	Nov. 1954 to March 1955
4. Shri Govind Ballabh Pant	March 1955 to Feb. 1961
5. Hafiz Mohammad Ibrahim	Feb. 1961 to Aug. 1963
6. Shri Yashwantrao Balwantrao Chavan	Aug. to Dec. 1963
7. Shri Jaisukhlal Hathi	Feb. to March 1964
8. Shri Mahomadali Currim Chagla	March 1964 to Nov. 1967
9. Shri Jaisukhlal Hathi	Nov. 1967 to Nov. 1969
10. Shri Kodradas Kalidas Shah	Nov. 1969 to May 1971
11. Shri Uma Shankar Dikshit	May 1971 to Dec. 1975
12. Shri Kamlapati Tripathi	Dec. 1975 to March 1977
13. Shri Lal K. Advani	March 1977 to Aug. 1979
14. Shri K.C. Pant	Aug. 1979 to Jan. 1980
15. Shri Pranab Mukherjee	Jan. 1980 to July 1981 and Aug. 1981 to Dec. 1984
16. Shri Vishwanath Pratap Singh	Dec. 1984 to April 1987
17. Shri N.D. Tiwari	April 1987 to June 1988
18. Shri P. Shiv Shanker	July 1988 to Dec. 1989
19. Shri M.S. Gurupadaswamy	Dec. 1989 to Nov. 1990

Name	Period
20. Shri Yashwant Sinha	Dec. 1990 to June 1991
21. Shri S.B. Chavan	July 1991 to April 1996
22. Shri Sikander Bakht	20th May 1996 to 31st May 1996
23. Shri Inder Kumar Gujral	June 1996 to Nov. 1996
24. Shri H.D. Deve Gowda	Nov. 1996 to April 1997
25. Shri Inder Kumar Gujral	April 1997 to March 1998
26. Shri Sikander Bakht	March 1998 to Oct. 1999
27. Shri Jaswant Singh	Oct. 1999 to May 2004
28. Dr. Manmohan Singh	June 2004 to May 2014
29. Shri Arun Jaitley	June 2014 - till date

### **Leader of the Opposition**

Like the Leader of the House, the office of the Leader of the Opposition has also originated in England out of practice and which has no official functions either according to legislation or the rules of the House.<sup>216</sup> The task of the Leader of the Opposition is, however, not so difficult as that of the Leader of the House, but is nevertheless of considerable public importance. It is so important, indeed, that he is paid salary, etc. out of the Consolidated Fund, both in England as well as in India. This is so because opposition is an essential part of the democratic government.<sup>217</sup> What is expected from an opposition is effective criticism.<sup>218</sup> Hence, it is rightly said that the most important part of Parliament is the opposition. The government governs and opposition criticises.<sup>219</sup> Both of them thus have functions and rights.

The function of the opposition is to attack upon government and upon individual Ministers. Its duty is to oppose. That duty is the major check upon corruption and defective administration. It is also the means by which individual injustices are prevented. This duty is no less important than that of the Government.<sup>220</sup> In fact, opposition and government are carried on alike by agreement. The minority agrees that the majority must govern, and the majority agrees that the minority should criticise.<sup>221</sup> The opposition has no right to obstruct, in the sense of making Parliament barren or unproductive.<sup>222</sup> It would be the clearest proof of the triumph of party spirit over parliamentary spirit if any government sets out to whittle away the rights of the opposition.<sup>223</sup> The uninterrupted respect for the

rights of the opposition which Government shows should be accepted as *prima facie* evidence of the soundness of its parliamentary faith.<sup>224</sup> The process of parliamentary government will break down if there was absence of mutual forbearance.<sup>225</sup>

In view of the importance of the opposition in a parliamentary democracy, the post of the Leader of the Opposition is indeed one of responsibility. He, among other things, watches for encroachments on the rights of minorities, demands debates when government is trying to slide away without parliamentary criticism. He must be in his place more often and familiar with all the tricks of a skilled parliamentarian and all the opportunities available under the rules of the House.<sup>226</sup>

In the Rajya Sabha until 1969, there was no Leader of the Opposition in the real and accepted sense of that expression, since there was no party which had the requisite strength of one-tenth of the total membership of the House, *i.e.*, twenty-five, the number required for constituting the quorum of the House. Till then, the practice was to call the Leader of the numerically largest opposition party as the Leader of the Opposition without according him any formal recognition, status or privileges. It was on 18 December 1969 that the Congress(O) which had the strength of thirty-nine members in the House of two hundred and forty, was recognised as the Opposition party and its Leader, Shri S.N. Mishra as the Leader of the Opposition in the Rajya Sabha. Immediately thereafter, felicitations were offered to him by the Chairman, Prime Minister and other leaders of parties/groups in the Rajya Sabha.<sup>227</sup> He was allotted front seat, next to the Deputy Chairman's seat on the left side of the Chair.

After the split in the Indian National Congress, the leader of the largest party in Opposition Group (Shri S.N. Mishra) requested the Chairman on 16 November 1969 that separate seats should be allotted to members of his group in the Rajya Sabha. He occupied the Deputy Chairman's seat which was vacant as the Deputy Chairman had resigned. Objection was taken by some members about Shri Mishra occupying that seat. The Chairman ruled that until seats were allotted, the leader of the new group and his members should speak from their seats as re-allotment would take time. The House was adjourned at 12.54 p.m. till 2.00 p.m. that day. When the House reassembled, the Vice-Chairman announced that the Chairman was considering the matter and adjourned the House for an hour. On reassembly, the Chairman announced that seats had been re-allocated to leaders and to other members, and the change would be effected by the next day. Thereafter, the Leader of the Opposition spoke from the new seat.<sup>228</sup>

The recognition was followed by a demand that facilities and privileges, etc. of the Leader of the Opposition should be decided. The Government assured that the same were already under consideration and would be

finalised and an announcement would be made soon. On 14 May 1970, the House spent the entire day discussing the issue and asking for the decision of the Government in the matter. The Leader of the House merely assured that he would convey the views of members to the Government and expedite the decision. Shri S. N. Mishra continued to be the Leader of the Opposition till March 1971, when he ceased to be the member of the Rajya Sabha, consequent upon his election to the Lok Sabha. He was succeeded by Shri M. S. Gurupadaswamy as the Leader of the Opposition. Although no formal announcement to that effect was made in the House, he was described as such in the proceedings.<sup>229</sup> He continued in that position till April 1972. Thereafter till March 1977, no opposition party in the Rajya Sabha had the requisite strength for recognition and there was no recognised Leader of the Opposition during that period.

The Salary and Allowances of Leaders of Opposition in Parliament Act of 1977, accords a statutory recognition and status to the office of the Leader of the Opposition. That Act defines the Leader of the Opposition in relation to either House of Parliament, as a “Member of the Council of States or the House of the People, as the case may be, who is, for the time being, the Leader in that House of the Party in opposition to the Government having the greatest numerical strength and recognised as such by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.”<sup>230</sup> Thus the Leader of the Opposition should satisfy three conditions, namely, he should be a member of the House, be the Leader in the Rajya Sabha of the party in opposition to the Government having the greatest numerical strength and be recognised as such Leader by the Chairman. As clarified further, where there are two or more parties in opposition to the Government, having the same numerical strength, the Chairman, having regard to the status of the parties, recognises anyone of the Leaders of such parties as the Leader of the Opposition for the purposes of the Act and such recognition is final and conclusive.<sup>231</sup> After a Leader is accorded recognition or ceases to be the Leader, a Gazette notification is issued. It is the conclusive evidence of the fact that the member concerned has become or ceased to be a Leader of the Opposition on the date indicated in the Gazette.<sup>232</sup> The Leader of the Opposition occupies seat No. 228 in the Chamber on the left side of the Chair next to the Deputy Chairman’s seat.

Under the Act, the Leader of the Opposition gets a salary of rupees fifty thousand per mensem, a daily allowance of rupees two thousand, for each day during the whole of his term, a constituency allowance of

rupees forty-five thousand per mensem and a sumptuary allowance of rupees two thousand per mensem, travelling allowance in respect of journeys performed, free and furnished residence and telephone, secretarial and medical facilities. Leader of Opposition is also entitled to a conveyance allowance of rupees three thousand per month if conveyance facility with a driver is not provided by the Secretariat. All these expenses are being met from the budgetary grants of the Rajya Sabha Secretariat.

Since the enactment of the provision mentioned above, a number of occasions have arisen to invoke the provision according recognition to or withdrawing it from the Leader of the Opposition in the Rajya Sabha.

On 29 March 1977, Shri Om Mehta, the then Chief Whip of the Congress Party in Rajya Sabha, informed that Shri Kamlapati Tripathi had been elected as the Leader of the Opposition in the Rajya Sabha by the Congress Party. On the basis of numerical strength of that party, the Chairman recognised him as the Leader of the Opposition and an announcement to that effect was made in the House on 30 March 1977.<sup>233</sup>

On 10 January 1978, Shri Bipin Pal Das, Chief Whip of the Congress Party intimated that Shri Kamlapati Tripathi had ceased to be the Leader of that Party (as a result of a split in that party). In that context a question arose whether the Chairman had power to derecognise a member as the Leader of the Opposition and if so, from which date. The matter was, therefore, referred to the Ministry of Law for advice. The Ministry gave the following opinion:

Although section 2 of the Act refers only to the recognition of a member as being the Leader of the Party in Opposition to the Government having the greatest numerical strength, the power of derecognition is implicit and necessarily follows from the power of recognition. Apart from cases like the one now under consideration, it is possible to visualise non-controversial occasions such as the case of the person ceasing to be a member of the Council, dying or resigning from the leadership of the party... Since there can be a time-lag between the date of the notification under section 9 and the date on which a person becomes or ceases to be a Leader of the Opposition, there would appear to be no objection to the notification mentioning a past date. If the Chairman is satisfied that Shri Kamlapati Tripathi, in fact, ceased to be the Leader of the Group having the greatest numerical strength with effect from 10 January 1978, or any other date, he may come to a finding to that effect. But, if the matter is likely to be controversial, then withdrawal of the recognition with effect from the date from which the Chairman comes to that conclusion would lessen the scope for dispute.<sup>234</sup>

After ascertaining the position, the Chairman declared that Shri Tripathi ceased to be the Leader of the Opposition in the Rajya Sabha on 15 February 1978.<sup>235</sup> Shri Bhola Paswan Shastri, Leader of that Party, was thereafter, recognised as the Leader of the Opposition on the basis of the intimation received from Shri Bipin Pal Das.<sup>236</sup>

In the meantime, the party position in the Rajya Sabha underwent considerable change. The Congress(I) Party emerged as the largest opposition party. Shri Kamlapati Tripathi was again recognised as the Leader of the Opposition and Shri Bhola Paswan Shastri was derecognised on 23 March 1978.<sup>237</sup> Shri Tripathi ceased to be the Leader of the Opposition on his retirement from the Rajya Sabha on 2 April 1978. After his re-election, he was again recognised as the Leader of the Opposition on 18 April 1978.<sup>238</sup> He continued till 8 January 1980, when he ceased to be the member of the Rajya Sabha on his election to the Lok Sabha.<sup>239</sup>

On 21 January 1980, Shri Lal K. Advani belonging to the Janata Party was recognised as the Leader of the Opposition as that party was the largest in numerical strength.<sup>240</sup> He, however, resigned from that post on 7 April 1980 and so ceased to be the Leader of the Opposition from that date.<sup>241</sup>

From 7 April 1980 to December 1989, again there was no Leader of the Opposition in the Rajya Sabha since no party enjoyed the required numerical strength for recognition, *i.e.*, twenty-five members. On 18 December 1989, Shri P. Shiv Shanker belonging to Congress (I) Parliamentary Party was recognised as the Leader of the Opposition.<sup>242</sup> He continued till 2 January 1991.<sup>243</sup>

In November 1990, Shri Chandra Shekhar formed the Government with the support of Congress (I) Party. The matter regarding the status of Shri Shiv Shanker as the Leader of the Opposition, when his party was supporting the ruling party, was raised in the Rajya Sabha on 27 December 1990.<sup>244</sup> The Chairman obtained the opinion of the Attorney-General, the material portion of which was: "...as the law stands today in the light of parliamentary convention and provisions of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, there is no change in the position in regard to the Leader of the Opposition and the Leader of the Congress(I) Party continues to be the Leader of the Opposition." While reading out the opinion in the House, the Chairman also announced that the Congress(I) Party had forgone the office of the Leader of the Opposition and that office became vacant.<sup>245</sup>

Meanwhile, the numerical strength of Janata Dal increased from twenty-four to twenty-five with the election of a member from Orissa in a bye-election, with effect from 19 March 1991. Shri M. S. Gurupadaswamy,

the Leader of that party, therefore, became eligible to be recognised as the Leader of the Opposition. However, with the resignation of the Government headed by Shri Chandra Shekhar, the question arose, whether the Congress (I) could revive its status as the numerically largest party in Opposition to the Government and of its Leader (Shri Shiv Shanker) as the Leader of the Opposition. By the time the claim of either of these parties could be decided, the Congress (I) party became the ruling party as a result of the general election. The strength of the Janata Dal continued to be twenty-five in the Rajya Sabha. Shri M.S. Gurupadaswamy was, therefore, recognised as the Leader of the Opposition with effect from 28 June 1991.<sup>246</sup> (Thus, there was no Leader of the Opposition between January and June 1991).

Shri Gurupadaswamy continued in that post till 21 July 1991, whereafter he was replaced by Shri S. Jaipal Reddy who was elected as the Leader of the Janata Dal in the Rajya Sabha, as per the communication received from Shri Gurupadaswamy.<sup>247</sup>

The strength of the Janata Dal in the Rajya Sabha came down to twenty-three with the retirement of two of its members from the Rajya Sabha on 2 April 1992. That party and its Leader Shri S. Jaipal Reddy, therefore, did not qualify to be recognised as the numerically largest Opposition Party and the Leader of the Opposition, respectively. Shri Reddy accordingly informed the Chairman who decided to rescind his recognition as the Leader of the Opposition with effect from 29 June 1992.<sup>248</sup>

The Bharatiya Janata Party became the numerically largest opposition party with a strength of twenty-nine members and as per a communication received from its Leader in Parliamentary Party (Shri Lal K. Advani), Shri Sikander Bakht, its Leader in the Rajya Sabha, was recognised as the Leader of the Opposition with effect from 7 July 1992.<sup>249</sup>

To summarise, following is the list of Leaders of the Opposition in the Rajya Sabha:

	Name	From	To
1.	Shri Shyam Nandan Mishra	December 1969	March 1971
2.	Shri M.S. Gurupadaswamy	March 1971	April 1972
3.	Shri Kamlapati Tripathi	30.3.1977	15.2.1978
4.	Shri Bhola Paswan Shastri	24.2.1978	23.3.1978
5.	Shri Kamlapati Tripathi	23.3.1978 18.4.1978	2.4.1978 and 8.1.1980

	Name	From	To
6.	Shri Lal K. Advani	21.1.1980	7.4.1980
7.	Shri P. Shiv Shanker	18.12.1989	2.1.1991
8.	Shri M.S. Gurupadaswamy	28.6.1991	21.7.1991
9.	Shri S. Jaipal Reddy	22.7.1991	29.6.1992
10.	Shri Sikander Bakht	7.7.1992 10.4.1996	10.4.1996 and 23.5.1996
11.	Shri S.B. Chavan	23.5.1996	1.6.1996
12.	Shri Sikander Bakht	1.6.1996	19.3.1998
13.	Dr. Manmohan Singh	21.3.1998	21.5.2004
14.	Shri Jaswant Singh	3.6.2004 5.7.2004	4.7.2004 16.5.2009
15.	Shri Arun Jaitley	3.6.2009 3.4.2012	2.4.2012* 26.5.2014
16.	Shri Ghulam Nabi Azad	8.6.2014 16.2.2015	10.2.2015 and till date

\*Consequent on the expiry of his term as a Member of Rajya Sabha on 2 April 2012, Shri Arun Jaitley also ceased to be the Leader of the Opposition. On his re-election to Rajya Sabha, he was again accorded recognition as the Leader of the Opposition in Rajya Sabha by the Chairman w.e.f. 3 April 2012.

### Ministers

The Constitution provides for a Council of Ministers headed by the Prime Minister to aid and advise the President who, in the exercise of his/her functions, acts in accordance with such advice.<sup>250</sup> The Prime Minister is appointed by the President and other Ministers are appointed by the President on the advice of the Prime Minister.<sup>251</sup> On the death or resignation of the Prime Minister, the entire Council of Ministers stands dissolved. However, in the case of resignation, the President asks the Prime Minister and other Ministers to continue until alternative arrangements are made. The Council of Ministers consists of all the categories of Ministers whether they are of the Cabinet rank or Ministers of State or Deputy Ministers.<sup>252</sup> The Ministers hold office during the pleasure of the President.<sup>253</sup> The Council of Ministers is collectively responsible to the Lok Sabha.<sup>254</sup> This implies that a motion of no-confidence can be moved against the Council of Ministers only in the Lok Sabha and not in the Rajya Sabha. Hence, the Rajya Sabha

rules do not contain any provision for moving of such a motion nor is there a provision in the rules for moving of an adjournment motion which is regarded as a censure motion. Provisions for these purposes are made only in the Rules of Procedure and Conduct of Business in the Lok Sabha.<sup>255</sup>

When a new Minister is appointed and sworn-in, the Prime Minister or in his absence the Leader of the House introduces him to the House at the earliest possible opportunity. Generally, a Minister is introduced to the House at the beginning of Question Hour. However, there have been many occasions when Ministers have been introduced to the House later in the day or on a subsequent day, if any of them is not able to be present on the first day of introduction.

After a Minister answered a question and supplementaries thereon, a member pointed out, “It seems a stranger was answering these questions because he has not been introduced.” The Chairman stated, “There is a custom of being introduced.” Thereafter, Shri Jaisukhlal Hathi, a senior Minister introduced the Minister to the House.<sup>256</sup> Also, on an occasion, objection was taken to the laying of a copy of the Proclamation on Karnataka by a Minister in the absence of another Minister who had not been introduced till then.<sup>257</sup>

The Prime Minister introduced the Ministers after lunch recess. One of the Ministers introduced had already participated in the proceedings that morning. A point of order was raised that it was a lapse. The Chairman ruled: “A Minister takes charge after the oath is administered to him. This is only a formality of introduction.”<sup>258</sup>

On an occasion, some members took objection when the Prime Minister was about to introduce a Minister. The objection was that the particular Minister had supported the practice of ‘Sati’. The Prime Minister made a statement denying that the Minister had supported ‘Sati’. The Minister also explained the position. The Leader of the Opposition lodged a protest when Prime Minister was introducing another Minister, objection being that a criminal case was pending against that Minister.<sup>259</sup>

A person who is not a member of either House of Parliament can be appointed a Minister. But if he does not get a seat in either House within six consecutive months from the date of his appointment as a Minister, he ceases to be a Minister.<sup>260</sup>

On 3 April 1970, a point was raised regarding the constitutional validity of three Ministers—Dr. S. Chandrasekhar, Dr. (Smt.) Phulrenu Guha and Shrimati Jahanara Jaipal Singh—who had ceased to be members on their retirement from the Rajya Sabha the previous day. It was contended, *inter alia*, that these Ministers should have resigned and

if at all they had to be continued, they should have been re-appointed by the Prime Minister. The Minister of Law (Shri P. Govinda Menon), by way of reply stated that the Prime Minister had obtained the opinion of the Attorney-General in the matter, which was as follows:

The question which has been asked of me by the Prime Minister is as to whether a person who has been a Minister and at the same time a member of the Rajya Sabha but has ceased to be a member of the Rajya Sabha can continue to be a Minister under the Constitution.

The only relevant provision in the Constitution in this regard is article 75(5),....

...The basic idea behind this provision is that a person, who is a Minister, shall cease to be a Minister if he is not a member of either House for a period of six consecutive months. From this it follows that a person who becomes a Minister but at the same time is not a member of either House will cease to be Minister if he does not become a member of either House within six months after he assumes office as Minister. From this it would further follow that if after a period of six months he ceases to be a member of either House, the period of six months will again start from the date when he ceases to be a member of either House and he will only cease to be Minister if he is not a member of either House at the expiration of this period of six consecutive months.

This being the position, a Minister who has ceased to be a member of the Rajya Sabha on 2 April 1970 can, in my view, continue to be Minister for a period of six consecutive months but no more without being a member of either House. It would not be necessary for him to resign and then take a fresh oath and thereafter be a Minister.

The Deputy Chairman closed the discussion with the following observations:

There are three aspects involved: one is factual, the other is constitutional and the third one is regarding political morality...

So far as the factual aspect is concerned, the three hon'ble Ministers cease to be members of either House on the 2nd midnight. As mentioned by the hon'ble Minister, the hon'ble Ministers have tendered their resignations and their resignations have been forwarded to the hon'ble Prime Minister. It means that they have vindicated their position... only the hon'ble Prime Minister has asked them to continue in office for some more period. These are the facts.

So far as the constitutional position is concerned, contradictory views have been expressed, and I think this is not the forum to discuss and decide the constitutional aspect. There is another forum where you can decide the constitutional matters.

So far as the political morality is concerned, I think this is a matter for the consideration of the Government. It has been pointed out by the hon'ble Law Minister and the Leader of the House that both of them will convey the feelings and sentiments of the hon'ble members... to ...the Prime Minister... Therefore, the sentiments and feelings, or whatever the views expressed by the hon'ble members, will be taken into consideration by the hon'ble Prime Minister.<sup>261</sup>

The next day, the matter was again raised. The Leader of the Opposition (Shri S. N. Mishra) and Shri Bhupesh Gupta sought to move the following motions respectively, which was not permitted by the Deputy Chairman on the previous day:

That this House disapproves of the continuance of Dr. Chandrasekhar, Shrimati Phulrenu Guha and Shrimati Jahanara Jaipal Singh as members of the Council of Ministers since they have ceased to be members of this House.

The House is of the opinion that the Prime Minister takes due note of the divergent and sharply contradictory views which have been expressed in regard to the continuance of Shrimati Jahanara Jaipal Singh, Dr. Phulrenu Guha and Dr. Chandrasekhar as members of the Council of Ministers and settles the matter raised in accordance with the provisions of the Constitution and keeping in view the norms of propriety as well as administrative efficacy.

The Chairman, also did not give permission to move the motions.<sup>262</sup> On another occasion, such issue was raised on 27 April 1982, during Question Hour when a Minister (Shri Sawai Singh Sisodia) who had ceased to be a member of the House on retirement began to answer a question. The Chairman after hearing some members reserved his ruling.<sup>263</sup> On 5 May 1982, he delivered the following ruling:

Objection was taken recently, during Question Hour, when an hon'ble Minister, who has ceased to be a member of the House by efflux of time, began to answer a question as Minister. It was argued that his oath as Minister 'had run out' and he must be freshly appointed and sworn-in as a Minister before the provisions of Article 75(5) of the Constitution can apply to him.

I reserved my ruling but allowed the Minister to reply on behalf of the Government to the question. I now proceed to give my ruling.

My attention has been drawn to the proceedings in this House on 3 April 1970, when an identical question had arisen. The matter was very exhaustively debated, but the Deputy Chairman was not called upon to express his opinion as the Minister then had resigned. The Attorney-General, however, gave an opinion upholding the claim of the concerned Minister to act as such. I have read the debate and the opinion of the Attorney-General. I agree with that opinion. (*Supra*)

In my view the position is clear beyond doubt and is also supported by precedents in the House to which the Leader of the House, including his own case, drew attention. Of course, the practice and precedents of the House cannot prevail against the Constitution and the laws and the matter must be set at rest once and for all. In my opinion, I rely upon the provisions of the Constitution itself.

Article 75(5), which is the relevant provision, reads as follows and please mark the words:

A Minister, who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

The sub-article opens with the words “a Minister” and not the words “a person”. This points to the fact that a Minister can continue for six consecutive months as a Minister whether such a person be newly sworn-in as a Minister or continues as Minister, having been sworn-in before the expiry of his term. If it was intended otherwise the sub-article would have read:

A person who is not a member or ceases to be member of either House of Parliament may be sworn-in as a Minister but if for any period of six consecutive months he is not a member of either House of Parliament he shall at the expiry of that period, cease to be a Minister.

The emphasis on the words “six consecutive months” leads to the conclusion that the Minister cannot cease to be a Minister during that period so long as at the commencement of the period he was a Minister. There is no break in the continuity by the fact of his ceasing to be a member of either House.

As to the oath, it may be said at once that a Minister takes two oaths—one as a member of the House and the other as Minister before entering upon that office. The former lapses as he cannot be sustained by any law as a member, but the second does not because Article 75(5) sustains him as a Minister for six consecutive months by the force of the Constitution itself. There is no need for a fresh oath. The oath ensures for this purpose.<sup>264</sup>

There are instances thus when Ministers who had ceased to be members of either House of Parliament had continued to be Ministers even thereafter.

Shri Sitaram Kesri's term of membership of the Rajya Sabha expired on 2 April 1980, and he was re-elected in June 1980; Shri Pranab Mukherjee's term of membership of the Rajya Sabha expired on 9 July 1981 and his new term commenced, on re-election, from 13 August 1981. Both of them continued to be Ministers.<sup>265</sup> Again, the term of Shri Yogendra Makwana expired on 2 April 1988 but he continued to be a Minister till 1 October 1988, (*i.e.*, full six months).

A Minister can, however, be re-appointed as Minister when he is elected as a member of Parliament.

Shri Pranab Mukherjee was sworn-in as Minister on 18 January 1993. He was not a Member of Parliament at that time. He relinquished the office with effect from 9 July 1993.<sup>266</sup> He was elected to the Rajya Sabha from West Bengal and his term commenced with effect from 19 August 1993. He was re-appointed as Minister on 31 August 1993.<sup>267</sup>

A Minister has the right to attend both the Houses and participate in their proceedings but he cannot vote in the House of which he is not a member. In other words a Minister who is a member of one House has the right to speak in and otherwise to take part in the proceedings of the other House, but has no right to vote there.<sup>268</sup>

When a Minister (a member of the other House) was speaking on a point of order raised regarding the Official Languages Bill, an objection was taken that the point of order was purely relating to the rights and privileges of the House and only members of the House should speak thereon. The Chairman over-ruled the point of order observing, "All Ministers are entitled to speak in either House."<sup>269</sup>

When a Minister who was a member of the other House wanted to raise a point of order, objection was taken in view of rule 258, which gave right to raise a point of order only to a member of the House. The Chairman ruled that in view of the earlier precedent and article 88 of the Constitution, which is a "super law" the Minister could raise a point of order.<sup>270</sup>

Summons for sessions of the Rajya Sabha is not issued to a Minister who is not a member of the House or a member of either House. Strictly speaking, a Minister who is not a member of the Rajya Sabha can speak in the House only in his capacity as a Minister and not in his personal capacity. However, there have been occasions in the Rajya Sabha where Ministers have expressed their views in their personal capacity and no objection seems to have been taken in the matter.

On 26 November 1954, the Minister for Food and Agriculture (Shri A. P. Jain) was intervening during the debate on private members' resolution. He stated that he had taken charge of the Ministry less than twenty-four hours ago and was not in a position to study the various implications of the resolution. Therefore, when he was speaking, it was more in his personal capacity and the official reply would be given by another colleague. No objection was taken.<sup>271</sup>

Similarly, no objection was taken when the Minister of Human Resource Development (Shri Madhavrao Scindia) intervened during the discussion on the Bill on the Reservation of Posts for Women in Government Services to express his personal views.<sup>272</sup>

Individual Ministers are responsible for attending to the business as put down in the list of business for the day. If for any reason they are unable to be present in the House, courtesy and convention require that they inform the Chairman accordingly in advance and also make alternative arrangement for another Minister to handle the parliamentary work in their absence.<sup>273</sup>

On 18 November 1985, a point was raised regarding the absence of the Prime Minister due to his visit abroad during the session of Parliament. The Chairman observed:

As the custodian of the privileges of the House, I have to say a few words. The principle that the Prime Minister of India stays in the Capital during the session of Parliament is unassailable, it has been accepted and it has not been questioned or challenged. But this is not an inflexible rule. There have been occasions when exigencies of Government and administration have necessitated the Prime Minister and some Ministers going out for the purpose of furthering the interests of the country. In this case the Prime Minister has been good enough to write to me as Chairman of the House. He has said that he is one of the six Heads of State who have been invited and that there are going to be very fruitful discussion amongst the Heads of States whom he is going to meet. Moreover, as the Leader of the House has said, more than 2,00,000 Indians are employed there and a measure of goodwill has got to be maintained with that country. I, therefore, do not think any breach of propriety has been done in this case. I certainly endorse the view that the Prime Minister should normally be present in the Capital during the session of Parliament.<sup>274</sup>

The Minister of State in the Ministry of Parliamentary Affairs sought to move a motion for election of a member of the Central Advisory Committee for NCC on behalf of the Minister for Defence (R&D). An objection was taken whether the latter had given in writing to the Chairman authorising the former. The Chairman upheld the point. The motion was not taken up.<sup>275</sup>

In the case of important debates such as the Motion of Thanks on the President's Address, it is the Prime Minister who generally explains the position of the Government in respect of the points raised during the discussion thereon. However, it is expected that some senior Minister is always present during the major debates. There have been many instances when the Chair had to make observations on the absence of Ministers during important discussions. There have also been instances when the House had to be adjourned for a while due to absence of Ministers.<sup>276</sup>

### **Attorney-General for India**

The Attorney-General is not a Member of Parliament or of the Council of Ministers. He has, however, the right to speak in, and otherwise to take part in the proceedings of either House, any joint sitting of the Houses and any Committee of Parliament of which he may be named a member, but he cannot, by virtue of this provision, vote.<sup>277</sup> He is entitled to all the privileges and immunities of Members of Parliament.<sup>278</sup>

The President appoints a person who is qualified to be appointed a Judge of the Supreme Court<sup>279</sup> to be the Attorney-General.<sup>280</sup> He holds office during the pleasure of the President.<sup>281</sup>

The Attorney-General is required to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President. He also discharges the functions conferred on him by the Constitution<sup>282</sup> or any other law.<sup>283</sup> In the performance of his duties, the Attorney-General has the right of audience in all courts in the country.<sup>284</sup>

There has not been any occasion so far when the Attorney-General has appeared before the Rajya Sabha. However, there have been occasions when members have demanded the presence of the Attorney-General in the House to give his opinion on certain aspects of the matter under the consideration of the House.<sup>285</sup>

When the Deputy Minister of Finance was laying on the Table a copy of the opinion of the Attorney-General on the constitutional validity of the Compulsory Deposit Bill, 1963, it was the general sense of the House that the Attorney-General should come to the Rajya Sabha also as he was to appear before the Lok Sabha. The Minister was, however, permitted to lay the paper on the Table.<sup>286</sup> [The Attorney General was, however, not called to appear before the Rajya Sabha.]

The Attorney-General was slated to appear before the Lok Sabha on 4 August 1993. There was a demand in the Rajya Sabha that the

Attorney-General should be called there also. The Deputy Chairman stated that she would convey the sentiments to the Chairman.<sup>287</sup> The next day again the matter was raised. The Deputy Chairman informed that the Business Advisory Committee which was meeting that day would decide about it. The view of the Business Advisory Committee was that there was no need to call the Attorney-General to the House to give his opinion on the issue of the Election Commission's powers, etc.<sup>288</sup>

Members may give notice of a motion requesting the Attorney-General to be present in the House in connection with a Bill or business before the House. Such a notice is admitted and it is for the House to take a decision thereon.

The following motion was admitted under rule 170.<sup>289</sup>

“WHEREAS this House is about to consider the Joint Parliamentary Committee’s Report on the Bofors deal;

AND WHEREAS the Report raises several issues of a legal nature;

THIS HOUSE, therefore, requests the Attorney-General of India to appear in this House and advise in respect of issues arising out of the said Report.”

Before the House took up the short duration discussion on the Joint Parliamentary Committee’s Report on Bofors contract, the motion was moved, discussed and negatived by a division.<sup>290</sup>

Under the direction of the Chairman, references have also been made to the Attorney-General for his opinion on procedural matters or constitutional provisions.

The Constitution (Sixty-second Amendment) Bill, 1988, lowering the voting age from 21 to 18 years was taken up for consideration on 16 December 1988. The Bill was considered on 19 and 20 December 1988 and was finally passed on the latter date. On 19 December 1988 a member was permitted to make a special mention regarding the requirement of ratification of the Bill by one-half of State Legislatures. In the course of the special mention, the member contended that the Bill did not require ratification and if the Government still thought that it required ratification then the Attorney-General should be invited to appear before the House.<sup>291</sup> On 20 December 1988, the Minister of Law, while replying to the third reading of the Bill, stated that the Bill would need ratification as per the view taken by the Law Ministry<sup>292</sup> and conveyed to the Rajya Sabha Secretariat.<sup>293</sup> However, on a written request of a member, the Chairman referred the matter to the Attorney-General for opinion.<sup>294</sup> He confirmed the view of the Law Ministry.

On 27 December 1990, members of non-Congress (I) opposition groups raised an issue regarding continuance of Congress(I) Party as the opposition party in the Rajya Sabha in the context of the formation of Government by Janata Dal(S) with the support of Congress(I) Party. The Chairman informed members on 28 December 1990 that he would decide the matter with a judicial mind. The matter was, therefore, referred to the Attorney-General for opinion. On 2 January 1991, the Chairman made an announcement quoting an extract from Attorney-General's opinion.<sup>295</sup>

The Committees have also referred matters under their consideration to the Attorney-General for his opinion.

The Committee on Subordinate Legislation referred, through the Ministry of Law, a matter regarding the competence of a Cantonment Board to transfer any part of the proceeds of the taxes levied by it to the Government, under the Cantonments Act, 1924.<sup>296</sup>

The Committee of Privileges referred the following issues to the Attorney-General for opinion:

- (i) whether Parliament can exercise jurisdiction over foreign nationals for any breach of privilege or contempt committed by them while in India.<sup>297</sup>
- (ii) the precise scope of article 79 of the Constitution; whether aspersions cast on the President could be termed as derogatory to the institution of Parliament, thereby attracting its privilege jurisdiction; and adequacy of the existing law to punish derogatory and undignified writings against the person of the President.<sup>298</sup>
- (iii) Parliament's power to impose fine on a contemner (informal opinion).<sup>299</sup>

The Joint Committees on Bills have also invited the Attorney-General to express views on various aspects of the Bills referred to them. For instance, the Attorney-General appeared before the Joint Committee on the Contempt of Courts Bill, 1968,<sup>300</sup> and the Code of Criminal Procedure Bill, 1970.<sup>301</sup>

There have also been occasions when the Government has *suo motu* referred certain questions arising in the House to the Attorney-General for opinion and apprised the Chairman or the House, accordingly.

When a matter regarding continuance of certain Ministers after they ceased to be the members of the Rajya Sabha was raised, the Minister of Law apprised the House of the opinion of the Attorney-General obtained by the Prime Minister.<sup>302</sup>

During March-April 1989 (149<sup>th</sup> Session), there was a controversy in the House whether the Report of the Thakkar Commission laid on the Table of the House on 27th March 1989, was a complete Report or not, and the Opposition wanted the Chairman to direct the Government to place papers connected with the Report on the Table of the House. The Chairman observed that the Government informed him that certain papers, with the Attorney-General's advice, comprised documents available to the Commission and proceedings of the Commission, and not falling within the meaning of the word 'Report' under the Commission of Inquiry Act and were, therefore, not placed on the Table. In view of the Attorney-General's opinion having been conveyed, the Chairman declined to issue any direction to the Government in the matter.<sup>303</sup>

### **Whips**

Another functionary which is central to the working of Parliament is the Whip. They are drawn from the party in power and the party or parties in opposition and form vital links in the internal organisation of a party inside Parliament. They are important office bearers of the parties in Parliament.

The word 'Whip' is derived from the 'Whippers-in' or 'Whips' employed by a hunt to look after the hounds and keep them together in the field.<sup>304</sup> The Concise Oxford Dictionary describes a 'Whip' as an "official appointed to maintain discipline among, secure attendance of, and give necessary information to, members of his party". The word is also applied to the call or appeal made by such a person and in that sense is defined by the Dictionary as "the written notice (variously underlined with number of lines representing degrees of urgency) requesting attendance on particular occasion".

Each party has a whip or a number of whips depending on its numerical strength in the House. Under the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998, 'Recognised Party' means, in relation to the Council of States, every party which has a strength of not less than twenty-five members in the Council and 'recognised groups' means, in relation to the Council of States, every party which has a strength of not less than fifteen members.

Of all the duties that are common to whips of all parties, by far the most important duty devolves upon the Government Chief Whip, who is concerned with mapping out the time of the session, getting the Government's programme of the business through and arranging the business of a day's sitting. During the session of the House, the main function of the

Government Chief Whip is to ensure that the Government business is transacted in accordance with the planned programme. It is part of his duty to advise the Government on parliamentary business and procedure and to maintain a close liaison with Ministers in regard to business which affects their departments. In managing the smooth passage of Government business, the Government Chief Whip has to ensure majority in every division. He sends them advance intimation through the system of ordinary one line, two line or three line whips to indicate the degree of urgency attached to a particular measure before the House. He has also to keep a vigilant eye on the proceedings and be ready to meet any emergency that may arise on the spur of the moment. In short, he has to keep his hand most of the time on the pulse of the House. He organises and shapes the course of debate for he submits his party's list of speakers to the Chair.

The other important function of the Government Whips is “to make a House and to keep a House”. To keep a House is to ensure that there is always sufficient attendance of members to form a quorum and more particularly to give support to their own chosen speakers.<sup>305</sup> To ensure that the Government business gets through, the Government Whip and all other Whips have to remain in touch with one another. The day-to-day working arrangements and compromises are made through what are called the “usual channels”, a parliamentary phrase which covers the close working relationships between the whips of different parties. In order, principally, to prevent any possible breach of friendly relations which exist between them, the whips do not take part in debates. Apart from formal motions, the Government Whips remain silent during the proceedings.

Each Leader, Deputy Leader and each Chief Whip of a recognised group and a recognised party is entitled to telephone and Secretarial facilities from the Secretariats of Parliament of India as per the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 and the rules made thereunder.

In Indian Parliament, the Minister of Parliamentary Affairs is the Chief Whip of Government. He is assisted by a few Ministers of State drawn from both the Houses. In the Rajya Sabha, the Minister(s) of State in the Ministry of Parliamentary Affairs holds (hold) the position of the Government Whip. Some of the important functions performed by the Chief Whip are: to decide about spacing of Parliament session, adjust the sessional programme between the two Houses, finalise the Government business in consultation with Ministries, ensure that the Government legislative and non-legislative and financial business is transacted as per schedule, announce weekly the Government business, send notices to members, *i.e.*, whip indicating the urgency and importance of the business, prepare roster to ensure presence

of some Ministers all the time in the two Houses, assist members by feeding them with material and provide them general guidance, supply list of speakers on Bills and other business in the House to enable the Chair to call members to speak, suggest names of members for appointment on various parliamentary committees and other bodies or for inclusion in various parliamentary delegations, attend meetings of the Business Advisory Committee for discussion and allotment of time for various items of the Government business. The Whips of the Government and of parties in opposition come into contact with each other to sort out matters of common interest and to understand and accommodate each other on many crucial occasions. Whips of the ruling party, as well as those of the Opposition, thus play a significant role in the smooth and efficient functioning of parliamentary democracy.

Under the Constitution (Fifty-second Amendment) Act, a member who votes or abstains from voting contrary to the whip (called 'Direction' in the Act), runs the risk of losing his seat in the House. Thus, the document or written notice which a whip sends to members has assumed a constitutional status.

It may be worthwhile to refer to the observations made by Hon'ble Vice-President of India and Chairman, Rajya Sabha, Shri M. Hamid Ansari, on the significant and multiple functions performed by the Whips in parliamentary democracy. He said that Whips 'facilitate the functioning of the legislature and optimise its output; be the channel for communicating party policy, on a day-to-day basis, to the rank and file of the party in the legislature and function as barometer for gauging their opinion; act as counsellors to their members and advisors to party leaderships'. He further said, 'Any commentary on the functioning of our parliamentary system is therefore, by implication, a comment on the efficacy or otherwise of the institution of Whips'. On the issue of recurrent disruptions of the proceedings of legislatures, he observed that 'The Chair should take up with the Whips, on a daily basis, incidents of violation of behavioural norms by members'. He also observed, 'the functioning of parliamentary democracy depends in great measure on the manner in which (Whips) shoulder (their) responsibilities.<sup>306</sup>

### **Secretary-General**

Next to the Chairman and the Deputy Chairman, the third important officer in the Rajya Sabha is the Secretary-General.<sup>307</sup> He is the adviser to the Chairman and through him to the House. He discharges all administrative and executive functions on behalf of and in the name of the Chairman.

No two persons are more closely associated in their work with regard to the House than the Chairman and the Secretary-General. A relationship of utmost confidence exists between them. The Secretary-General's role in the parliamentary set up is a vital one and of high responsibility. He is the repository of the accumulated decisions and precedents of the House, the custodian of its conventions and traditions and a link between changing membership of the Rajya Sabha.

The Secretary-General is a permanent officer of the House and is chosen and appointed by the Chairman from amongst those who have made their mark by long years of service in the Parliament or State Legislatures or the Civil Services. In the warrant of precedence, he holds the rank as prescribed for corresponding officers of the Government of India.<sup>308</sup> The Secretary-General is responsible and answerable to the Chairman alone for his functions. He occupies a seat just below the Chairman's seat in the Chamber of the Rajya Sabha and is constantly available for consultation and advice and resolution of a procedural doubt or interpretation of a rule, equipped as he is with experience and knowledge of parliamentary procedures, practices and precedents.

The functions of the Secretary-General are two fold: parliamentary and administrative. It is the former, which are more important. The most crucial hour of the day of parliamentary work commences with the daily meeting of the Secretary-General with the Chairman before the House meets at 11.00 a.m. A spate of notices of urgent matters of public importance received from members are discussed and disposed in the Chairman's Chamber in an expeditious manner. In the House also, the Secretary-General is readily available with his advice and suggestions, as and when asked for by the Presiding Officer. The Secretary-General's advice is also available to all members irrespective of party-affiliations. The advice, when asked for, is objective, impartial, full and frank.

Some of the parliamentary duties of the Secretary-General are laid down in the Rules of Procedure and Conduct of Business in the Rajya Sabha but many others depend on several practices and conventions. When the President arrives to address both Houses of Parliament assembled together, the Secretaries-General of the two Houses along with the Chairman, Rajya Sabha, Speaker, Lok Sabha, Prime Minister and Minister of Parliamentary Affairs receive the President at the gate of the Parliament House and come to the Central Hall in a procession along with the President. Similarly, they join the procession when the President departs. After the conclusion of the President's Address, the Secretary-General lays on the Table a copy each

of the Hindi and English versions of the Address duly authenticated by the President. For the purpose of elections to the offices of the President and the Vice-President, the Secretaries-General of the Rajya Sabha and the Lok Sabha are alternately appointed as returning officers.

Whenever a session of the House is called, the Secretary-General issues, on the basis of the Summoning Order of the President, summons to each member to attend the session.<sup>309</sup>

He keeps a Roll of Members of the House which must be signed, in his presence, by every newly-elected member before taking his seat.<sup>310</sup> He also causes to send to every member notice of the date for the election of the Deputy Chairman and receives notices which any member may give proposing names for this office.<sup>311</sup>

He is responsible for the arrangement of the Government business in such order as the Chairman may, after consultation with the Leader of the House, determine<sup>312</sup> and for the preparation of a list of business for each day of the session.<sup>313</sup> He circulates the list of business, lists of admitted questions as also every Bulletin, list of amendments, notice or other paper which is required to be made available to members under the rules.<sup>314</sup> The rules also provide that every notice like notice of a question, motion, resolution, Bill, amendment, question of privilege, calling attention or short duration discussion, etc., has to be given by members in writing addressed to the Secretary-General.<sup>315</sup>

Where the prior sanction or recommendation of the President is required under the Constitution for the introduction or consideration of a Bill or moving of an amendment thereto, the Minister or member concerned has to communicate in writing to the Secretary-General, the President's sanction or recommendation.<sup>316</sup>

The Secretary-General signs messages to be sent from the Rajya Sabha to the Lok Sabha, reports to the House messages received from the Lok Sabha and also lays on the Table copies of the Bills received through such messages, if the House is in session, or otherwise, forwards such messages to members through the Bulletin. In the latter case copies of the Bills received through such messages are laid on the Table by him when the House meets again.<sup>317</sup> The Secretary-General also certifies all Bills to be transmitted or returned to the Lok Sabha. In case of urgency, he authenticates Bills in the absence of the Chairman before they are presented to the President for assent<sup>318</sup> and lays them on the Table of the House after they are assented to by the President or returned by him.<sup>319</sup>

The Secretary-General also lays on the Table copies of the communication between the Prime Minister and the President regarding resignation of the Government.

The Secretary-General laid on the Table copies of the communication between the Prime Minister and the President regarding resignation of the Government on 7 March 1991. On an earlier occasion also, on 16 July 1979, the Secretary-General was called to lay the copies of such a communication but could not do so due to interruptions.<sup>320</sup>

The Secretary-General receives petitions, documents and papers addressed to or intended for the House and reports to the House any such petitions, etc. received by him and admitted by the Chairman.<sup>321</sup> If a member wants to present a petition, he has to give advance intimation thereof to the Secretary-General.<sup>322</sup> He has the custody of all records, documents and papers of the House or any of its committees and of the Secretariat and does not permit any such paper to be taken out from the Parliament House without the permission of the Chairman.

A Minister wishing to correct any inaccuracy in the information given by him in answer to a starred or unstarred or short notice or supplementary question or in a debate, has to give notice to the Secretary-General of his intention to correct it, accompanied by a copy of the Statement in regard thereto.

In the case of a member resigning his seat in the House or where a seat is declared vacant by the House, the Secretary-General causes the information to be published in the Gazette and forwards a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.<sup>323</sup> Visitors are admitted to the Galleries on Visitors' Cards issued in the name of the Secretary-General. Similarly, Identity Cards-cum-Railway passes to members and their spouses are also issued in the name of the Secretary-General.

By virtue of being the Secretary-General of the Rajya Sabha, he functions as the Secretary-General of all parliamentary committees and may attend the meetings of such committees himself or require officers to attend them. In the case of a select or joint committee on a Bill, he fixes its meeting in consultation with the Minister-in-Charge of the Bill if the Chairman of the Committee is not readily available.<sup>324</sup> When it is considered necessary to take evidence of a witness, the Secretary-General issues summons to him to appear before the House or a committee thereof.<sup>325</sup> If a parliamentary committee completes its report and the Lok Sabha is dissolved in the meantime, the Secretary-General, Rajya Sabha lays that

report on the Table of the House at the first convenient opportunity. This also applies in the case of a report of a committee which ceases to exist after the presentation of the report to the Chairman, Rajya Sabha.<sup>326</sup>

The Secretary/Secretary-General laid on the Table a copy each of the 67th to the 72nd Reports of the Public Accounts Committee and the 35th to the 40th Reports of the Committee on Public Undertakings which were presented by their Chairmen to the Speaker of the Third Lok Sabha before its dissolution on 3 March 1967, as received from the Lok Sabha Secretariat. He also laid on the Table 142nd, 165th, 172nd, 173rd, 176th Reports of the Public Accounts Committee (1974-75). Similarly, the Secretary-General laid on the Table a copy each of the 98th to the 101st Reports of the Committee on Public Undertakings and 59th and 60th Reports of the Committee on the Welfare of the Scheduled Castes and Scheduled Tribes which were presented by their Chairmen to the Speaker of the Seventh Lok Sabha, before its dissolution on 31 December 1984, as received from the Lok Sabha Secretariat.<sup>327</sup>

The Secretary-General laid on the Table, under paragraph 8(2) of the Tenth Schedule to the Constitution of India, a copy (in English and Hindi) of the Members of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985, made by the Chairman, Rajya Sabha, as directed by the General Purposes Committee.<sup>328</sup>

If there is no quorum at the time appointed for commencement of the sitting of the House even after the quorum bell has been rung for quite sometime, the Secretary-General brings the matter to the notice of the Presiding Officer and under his orders informs the members present in the House about the time when the House will meet next.

On Friday, the 8 December 1995, after the lunch-recess, when there was no quorum even after the quorum bell had been rung for quite sometime, the Secretary-General announced that since there was no quorum, the Deputy Chairman had directed that the Rajya Sabha would meet at 11.00 a.m. on Monday, the 11 December 1995.<sup>329</sup>

The Secretary-General causes to be prepared a full report of the proceedings of the House at each of its meetings and publishes it in such form and manner as the Chairman may from time to time, direct.<sup>330</sup>

When the division takes place on any issue, the Secretary-General sets the process of division in motion, explains, if so directed by the Chairman, the process thereof and presents the totals of "Ayes" and "Noes" to the Chairman.<sup>331</sup>

The Secretary-General heads the Rajya Sabha Secretariat which functions under the overall direction of the Chairman. As the administrative head of the Secretariat of the House, the Secretary-General exercises powers

vested in the Chairman, including the determination of the strength, method of recruitment and of qualifications, etc. for the various categories of posts. He is the appointing, punishing and appellate authority for certain classes of officers and staff of the Secretariat. He exercises financial powers and initiates budget proposals relating to the Rajya Sabha and its Secretariat. He is the chief accounting authority for the money sanctioned by the House for expenditure under the Demands for Grants of the Rajya Sabha and its Secretariat and the responsibility is discharged by him through and with the assistance of the Pay and Accounts Officer who works in direct relation with him.

The Secretary-General corresponds directly with the Ministries and Departments of the Government of India and members in connection with the business of the House or any matter likely to come up before the House. He also organises orientation programmes for the newly elected/nominated members in the Rajya Sabha, biennially.

Under section 8A(1) of the Representation of the People Act, 1951, the Secretary-General has been specified as an authority to accept petitions about corrupt practices in relation to an election to the Rajya Sabha.<sup>332</sup>

Whether sitting at the Table, assisting in committees or dealing with the day-to-day business of the House, the Secretary-General becomes very well-known to members who turn to him for advice on points of law and procedures, irrespective of their party affiliations. He is in the midst of members of various political persuasions yet by training, he remains detached. This detachment helps him enjoy the confidence of all. Because of the difficult and delicate nature of the functions performed by the Secretary-General, his work has been publicly recognised and eulogised by the Chairman and by all the political groups on the floor of the House. They have all given expression to their appreciation of the arduous nature of the functions entrusted to him daily which bear the imprint of, and are characterised by, the great spirit of devotion and attachment to the parliamentary institution and have sometimes to be carried out in difficult conditions. Anonymity and amiability are the hallmark of the Secretary-General's office. Chaucer's description of a functionary at Oxford applies equally to the Secretary-General: "He never spoke a word more than was needed. Formal at that, respectful in the extreme. Short, to the point, and lofty in his theme... sitting mum at Table." By his outstanding ability, devoted service and unfailing courtesy, the Secretary-General makes his own place in the estimation of the House.

Between the date of the first constitution and the date of the first sitting of the Rajya Sabha (April-May 1952) Shri B.N. Kaul, Principal Private

Secretary to the then Prime Minister Shri Jawaharlal Nehru, was appointed to work as Secretary, Council of States.<sup>333</sup>

Thereafter the following have been the Secretaries/Secretaries-General of the Rajya Sabha:

**Shri S.N. Mukherjee (13.5.1952-8.10.1963)**, was earlier Chief Draftsman of the Constitution in the Constituent Assembly. Glowing tributes were paid to him in an obituary reference on his death while he was still in office.<sup>334</sup>

**Shri B.N. Banerjee (9.10.1963-31.3.1976)**, before joining the Rajya Sabha Secretariat, was Legal Adviser to the High Commissioner for India in London. On retirement as the Secretary-General, he was nominated to the Rajya Sabha by the President.<sup>335</sup>

**Shri S.S. Bhalerao (1.4.1976-30.4.1981)**, had earlier been Secretary of the Maharashtra Legislative Assembly. Tributes were paid to him in the House on his retirement as the Secretary-General.<sup>336</sup>

**Shri Sudarshan Agarwal (1.5.1981-30.6.1993)**, belonged to Judicial Service and worked as District and Sessions Judge prior to joining the Rajya Sabha Secretariat. As a special gesture he was seated in the Special Box of the Chamber of the Rajya Sabha when tributes were being paid to him in the House on his retirement as the Secretary-General.<sup>337</sup>

**Shrimati V.S. Rama Devi (1.7.1993-25.7.1997)**, belonged to Indian Legal Service and had, prior to her appointment as the Secretary-General, held various judicial and other offices such as Judicial Member of the Central Excise, Customs and Gold Control Tribunal; Honorary Adviser to the National Commission for Women; Member-Secretary, Law Commission; Secretary (Legislative Department), Government of India; and for a short while, Chief Election Commissioner. The House made appreciative references on her appointment.<sup>338</sup>

**Shri S.S. Sohoni (25.7.1997-2.10.1997)**, officiated as Secretary-General and was holding the post of Additional Secretary in the Rajya Sabha Secretariat. He belonged to the Indian Administrative Service and joined as Additional Secretary in the Secretariat on permanent absorption w.e.f. 22 February 1992.

**Shri Ramesh Chandra Tripathi (3.10.1997-31.08.2002)**, started his career as a Lecturer/Assistant Professor in the University of Allahabad in 1958 and entered the Indian Administrative Service in 1964 and prior to his appointment as the Secretary-General, Rajya Sabha, held various posts such as Secretary to Government of India, Ministry of Parliamentary Affairs; Adviser (Education), Planning Commission,

New Delhi; Principal Secretary, Department of Energy, Government of U.P.; Principal Secretary and Director-General, Department of Public Enterprises, Government of U.P.; Joint Secretary, Department of Culture, Government of India; Director-General, Archaeological Survey of India, etc.

**Dr. Yogendra Narain (1.9.2002-14.9.2007)**, entered the Indian Administrative Service in 1965 and prior to his appointment as the Secretary-General, Rajya Sabha, held various posts such as Chief Secretary, Government of U.P., Secretary to Government of India, Ministry of Defence, etc.

**Dr. V.K. Agnihotri (29.10.2007-30.9.2012)**, joined the Indian Administrative Service (IAS) in 1968 and prior to his appointment as the Secretary-General, Rajya Sabha, held various posts such as Secretary, Ministry of Parliamentary Affairs and Secretary, Ministry of Panchayati Raj, Government of India; Joint Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie; Member (Administration), Central Administrative Tribunal (Principal Bench), New Delhi.

**Shri Shumsher K. Sheriff (1.10.2012-till date)**, started his career as a Lecturer in University of Delhi in 1974 and joined the Indian Administrative Service in 1977. Prior to his appointment as the Secretary-General, Rajya Sabha, held various posts in Union Territories Governments including Principal Secretary (Home), Government of NCT of Delhi; Chief Secretary, Andaman & Nicobar Administration. Served as Senior Adviser to Executive Director, Asian Development Bank, Manila. In Government of India, held posts in the Ministry of Finance; Secretary to the Vice-President of India; Joint Secretary to the President of India (held charge of Secretary to President from August 2000 to July 2002). In 2011, became Secretary to Government of India.

#### NOTES AND REFERENCES

1. Art. 89.
2. Art. 65(1).
3. Art. 65(2).
4. Art. 62(2).
5. Valmiki Choudhary, *Dr. Rajendra Prasad-Correspondence and Select Documents*, Vol. 21, pp. 500-01.
6. Bn. (II), 24.3.1977.
7. *Ibid.*, 11.10.1982, 16.10.1982, 18.10.1982, 20.10.1982 and 30.10.1982.
8. Art. 65(3).
9. Art. 64.
10. Art. 66(1).
11. Constitution (Eleventh Amendment) Bill, 1961, Statement of Objects and Reasons.
12. Art. 66(2).
13. Art. 66(3).

14. Art. 66(4).
15. *Ibid.*, Expln.
16. Presidential and Vice-Presidential Elections Act, 1952, s. 4(1).
17. *Ibid.*, s. 4(3).
18. *Ibid.*, s. 4(4).
19. *Ibid.*, s. 5B(1)(b).
20. *Ibid.*, s. 5C.
21. *Ibid.*, s. 5B(5).
22. Art. 67.
23. Art. 69.
24. Art. 71(1).
25. Art. 71(2).
26. Presidential and Vice-Presidential Elections Act, 1952, s. 14A.
27. *Ibid.*, s. 18.
28. Art. 71(4).
29. Presidential and Vice-Presidential Elections Act, 1952, s. 19.
30. Art. 64.
31. Art. 112(3).
32. R.S. Deb., 20.4.1987, c. 174.
33. R. 221.
34. R. 21.
35. R. 222.
36. R.S. Deb., 21.4.1964, c. 51-52; and 24.4.1964, c. 358-59.
37. *Ibid.*, 9.5.1974, c. 121.
38. *Ibid.*, 6.11.1987, c. 244.
39. C.S. Deb., 19.5.1952, c. 50-51.
40. *Parliamentary Privileges—Digest of Cases* (1950-85), pp. 745-46.
41. *Ibid.*, pp. 747-48.
42. R.S. Deb., 21.11.1983, c. 415-18; and F. No. 35/17/83-L.
43. Art. 100(1).
44. Art. 92(1).
45. Art. 92(2).
46. Art. 100(4).
47. Art. 101(3), *Proviso*.
48. Tenth Sch., para. 6(1).
49. *Ibid.*, para. 8(1).
50. *Ibid.*, para. 8(3).
51. Art. 120(1), *Proviso*.
52. C.S. Deb., 17.7.1952, c. 1331.
53. R.S. Deb., 7.5.1981, c. 282-87.
54. Bn. (II), 24.11.1995.
55. C.S. Deb., 19.5.1952, c. 78-81.
56. Bn. (I), 31.8.1978.
57. For details see Chapter 6.
58. Rs. 187 and 203.
59. R. 30(2).
60. R. 217(2).
61. R. 279(1).
62. R.S. Deb., 11.9.1981, c. 337-39.
63. R. 240.
64. R. 261.
65. R. 255.
66. R. 256(1).
67. R. 257.

68. For details, see Chapter 16.
69. R. 108 and C.S. Deb., 6.5.1954, c. 5291.
70. R. 135.
71. R. 266.
72. Art. 98.
73. R. 222A.
74. R. 222B.
75. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 9(4).
76. Judges (Inquiry) Act, 1968, s. 3(2).
77. *Ibid.*, s. 7(5).
78. Press Council Act, 1978, s. 5(2).
79. For details, see brochure entitled *Committees of Rajya Sabha and other Parliamentary Committees and Bodies on which Rajya Sabha is represented*.
80. R.S. Deb., 10.8.1978, c. 446-47; 17.8.1978, c. 165-66; 24.8.1978, c. 190-91; and 29.8.1978, c. 6-7.
81. *Ibid.*, 3.3.1987, c. 36-37; and 6.5.1987, c. 279-84.
82. *Ibid.*, 2.8.1995; and Bn. (I) 9.8.1995.
83. Art. 89(2).
84. R. 7(1).
85. R. 7(2).
86. *Ibid.*, *Proviso*.
87. See, for instance, Bn. (II), 6.7.1992.
88. R. 7(3) and (4).
89. R.S. Deb., 17.12.1969, c. 4517-19.
90. *Ibid.*, 29.7.1980, c. 139-53.
91. *Ibid.*, 30.7.1980, c. 165-66.
92. Art. 90(a).
93. Art. 90(b).
94. Art. 90(c).
95. Art. 112(3)(b).
96. F. No.1/32/2/99-Cab.
97. No. RS 31/2014-T and Circular No. RS 31/2014-T dated 5.3.2014.
98. Art. 91(1).
99. Art. 91(2).
100. R. 9.
101. R.S. Deb., 3.1.1991.
102. *Ibid.*, 11.3.1991.
103. The Houses of Parliament (Joint Sittings and Communications) Rules, R. 5.
104. Art. 100(1).
105. Bn. (II), 20.10.1984 and 1.3.1985.
106. R. 30(1).
107. R. 217(1).
108. See, for instance, Bn. (II), 6.6.1994.
109. R. 30(4) and 217(5).
110. 3 Rpt. COR, pp. 3 and 5.
111. See, for instance, R. 73(1), *Proviso*.
112. Protection of Human Rights Act, 1994, s. 4.
113. Art. 91(1).
114. Bn. (II), 24.3.1977.
115. Bn. (I), 28.3.1977.
116. Bn. (II), 28.3.1977.
117. Bn. (I), 30.3.1977.
118. Provisional Calendar of Sittings, f.n.
119. R. 8(1).

120. C.S. Deb., 16.5.1952, c. 45-46.
121. *Ibid.*, 16.5.1952, c. 46.
122. 3 Rpt. COR, pp. 1-2.
123. Bn. (II), 7.7.1992 and 9.7.1992.
124. *Ibid.*, 22.2.1990, 2.5.1990, 17.7.1990, 27.4.1992, 7.7.1992, 1.12.1992, 11.5.2006, 21.7.2006, 17.7.2012, 19.7.2012 and 7.8.2012.
125. Bn. (I), 27.2.1997 and 1.8.1997.
126. For details, see Chapter 11.
127. R.S. Deb., 18.9.1981, c. 507-08.
128. R. 9.
129. Art. 100(1).
130. R. 229(2).
131. R.S. Deb., 5.8.1981, c. 177-81.
132. R. 8(2).
133. Bn. (II), 15.9.1994.
134. R.S. Deb., 31.3.1969, c. 6536.
135. *Ibid.*, 19.5.1969, c. 3723.
136. Art. 91(2).
137. R.S. Deb., 18.3.1987, c. 293.
138. *Ibid.*, 24.3.2005, 18.3.2006, 20.8.2010 and 21.8.2010.
139. R. 9.
140. R.S. Deb., 31.3.1967, c. 1797.
141. *Ibid.*, 3.4.1967, c. 1934-36.
142. *Ibid.*, 2.12.1968, c. 2261-62.
143. *Ibid.*, 3.12.1968, c. 2425-27.
144. *Ibid.*, 30.6.1980, c. 175.
145. *Ibid.*, 1.7.1980, c. 125-26.
146. *Ibid.*, 22.12.1980, c. 461.
147. *Ibid.*, 23.12.1980, c. 1-5, 34-35.
148. *Ibid.*, c. 4.
149. *Ibid.*, 2.7.1980, c. 195.
150. *Ibid.*, 3.7.1980, c. 1-4.
151. *Ibid.*, 25.8.1981, c. 345-46.
152. *Ibid.*, 26.8.1981, c. 145-49.
153. See, rules regarding various Committees.
154. Bn. (I), 28.7.1989.
155. See, for instance, R. 207(2).
156. R. 90(5).
157. R. 90(7).
158. R. 211.
159. R.S. Deb., 8.5.1981, 17.9.1981 and 26.3.1982.
160. Housing and Telephone Facilities (Members of Parliament) Rules, 1956, R. 4(2).
161. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 2(d) read with s. 3.
162. Sir Ivor Jennings, *Parliament*, 2<sup>nd</sup> Edn., 1970, pp. 73-74.
163. Gladstone, quoted in May, p. 201.
164. Herbert Morrison, *Government and Parliament*, pp. 117-18.
165. *An Encyclopaedia of Parliament*, p. 427.
166. Sir Ivor Jennings, *Parliament*, 2<sup>nd</sup> Edn., 1970, pp. 73-79.
167. Report of the Committee of Presiding Officers (Page Committee), para. 47.
168. C.S. Deb., 21.5.1952, c. 245.
169. *Ibid.*, 18.2.1953, c. 615.
170. *Ibid.*, 24.11.1952. c. 36-37.
171. *Ibid.*, 3.12.1952, c. 802.

172. C.S. Deb., 6.12.1952, c. 988-89.
173. *Ibid.*, 13.5.1952, c. 2; 19.4.1954, c. 3303; R.S. Deb., 29.4.1968, c. 1; and 17.8.1981, c. 1-2.
174. R.S. Deb., 24.5.1996, c. 1.
175. *Ibid.*, 23.7.2002, c. 1.
176. R. 23.
177. R. 14 and 20.
178. R. 24.
179. R. 172.
180. R. 177.
181. R. 186(2).
182. GPC mts., 1.9.1972; and Bn. (II), 10.11.1972.
183. R.S. Deb., 25.6.1980, c. 1-2.
184. *Ibid.*, 7.3.1961, 1.3.1963, 29.5.1964, 14.2.1966, 5.5.1969, 28.2.1977, 17.7.1986 and 27.7.1987.
185. *Ibid.*, 29.5.1964, 5.5.1969 and 28.2.1977.
186. *Ibid.*, 27.7.1970, c. 157-60.
187. *Ibid.*, 25.7.1966, 16.11.1966 and 14.12.1967.
188. Present rule 191 corresponding to old rule 167 was again amended in 1981, on the recommendation of the Rules Committee (Third Report) so that a motion to refer the question to the Committee may be moved by a member who has raised the matter or by any other member. In other words, the reference to the Leader of the House has now been omitted from the rule.
189. See, 7, 9 and 13 Rpts., COP.
190. R.S. Deb., 21.12.1967, c. 5236-56.
191. *Ibid.*, 18.3.1982, c. 202-33.
192. *Ibid.*, 21.11.1983, c. 415-18.
193. R. 215(1).
194. Bn. (I), 21.12.2000.
195. See, Chapter 15.
196. C.S. Deb., 19.5.1952, c. 83-84.
197. R.S. Deb., 3.4.1970, c. 58-118.
198. *Ibid.*, 14.5.1970, c. 200.
199. *Ibid.*, 2.12.1992, c. 3.
200. *Ibid.*, 2.8.1982, c. 145-157.
201. *Ibid.*, 7.5.1985, c. 171-72.
202. *Ibid.*, 22.4.1981.
203. *Ibid.*, 20.8.1979 and 6.3.1991. See also R.S. Deb., 14.5.1985, 20.12.1989 and 4.9.1991.
204. *Ibid.*, 15.4.1999, c. 1-2.
205. *Ibid.*, 15.3.1965, c. 3443.
206. *Ibid.*, 3.5.1966, c. 62-80.
207. *Ibid.*, 31.7.1987, c. 299-301.
208. *Ibid.*, 22.2.1983, c. 392-94.
209. *Ibid.*, 16.12.1992, c. 1048-50.
210. *Ibid.*, 2.3.2001, p. 194.
211. *Ibid.*, 18.3.2002, p. 279.
212. C.S. Deb., 24.11.1952, c. 36-37.
213. R.S. Deb., 10.8.1959, c. 65.
214. C.S. Deb., 1.5.1952, c. 4625.
215. R.S. Deb., 26.4.1978, c. 141-49.
216. Sir Ivor Jennings, *Parliament*, p. 79.
217. *Ibid.*, *Cabinet Government*, Chapter XV.
218. *Ibid.*
219. *Ibid.*, p. 472.

220. Sir Ivor Jennings, *Cabinet Government*, p. 499.
221. *Ibid.*, p. 500.
222. Select Committee on Procedure, HC 161 of 1931, Evidence of Prime Minister Ramsay Mac Donald.
223. Campion, *British Government since 1918* (Ed.), pp. 20-21.
224. *Ibid.*, *Parliament : A Survey* (Ed.), pp. 29-31.
225. Sir Ivor Jennings, *Cabinet Government*, p. 500.
226. *Ibid.*, *Parliament*, p. 84.
227. R.S. Deb., 18.12.1969, c. 4775-97.
228. *Ibid.*, 17.11.1969, c. 107-24.
229. *Ibid.*, for instance, 24.3.1971, c. 6; 31.3.1971, c. 131; and 1.4.1971, c. 205.
230. Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, s. 2.
231. *Ibid.*, Expln. to s. 2.
232. *Ibid.*
233. Bn. (II), 30.3.1977.
234. F. No. 19/78-T.
235. Bn. (II), 18.2.1978.
236. Bn. (I), 24.2.1978, *see also*, Bn. (II), 3.3.1978.
237. *Ibid.*, 23.3.1978, *see also*, Bn. (I), 8.3.1978.
238. Bn. (II), 22.4.1978.
239. F. No. 19/80-T.
240. Bn. (II), 22.1.1980.
241. *Ibid.*, 29.4.1980.
242. *Ibid.*, 19.12.1989.
243. *Ibid.*, 3.1.1991.
244. R.S. Deb., 27.12.1990, c. 7-53.
245. *Ibid.*, 2.1.1991, c. 835-43.
246. F. No. 12/91/T; Bn. (II), 1.7.1991; and R.S. Deb., 1.7.1991.
247. *Ibid.*, Bn. (I), 24.7.1991.
248. F. No. 12/92/T and Bn. (II), 1.7.1992.
249. F. No. 12/92/T and Bn. (II), 7.7.1992.
250. Art. 74(1).
251. Art. 75(1).
252. Salaries and Allowances of Ministers Act, 1952, s. 2.
253. Art. 75(2).
254. Art. 75(3).
255. L.S.R. 56-63, 198 and 199.
256. R.S. Deb., 31.3.1967, c. 1554.
257. *Ibid.*, 20.12.1989.
258. *Ibid.*, 25.1.1980, c. 59-60.
259. *Ibid.*, 28.12.1990, c. 1-17.
260. Art. 75(5).
261. R.S. Deb., 3.4.1970, c. 58-118.
262. *Ibid.*, 4.4.1970, c. 53-67.
263. *Ibid.*, 27.4.1982, c. 3-5.
264. *Ibid.*, 5.5.1982, c. 193-95.
265. *Ibid.*, 27.4.1982, c. 5.
266. Cabinet Sectt. OM No. 55/1/1/93/Cab. (i), 18.1.1993 and 9.7.1993.
267. *Ibid.*, 1.9.1993.
268. Art. 88.
269. R.S. Deb., 2.5.1963, c. 1828, *see also*, R.S. Deb., 15.12.1980, c. 207-15.
270. *Ibid.*, 25.1.1980, c. 52-56.
271. *Ibid.*, 26.11.1954, c. 41-42.
272. *Ibid.*, 1.12.1995.

273. R.S. Deb., 28.3.1980, c. 160.
274. *Ibid.*, 18.11.1985, c. 356-57.
275. *Ibid.*, 31.7.1986, c. 131.
276. See Chapters 7 and 11.
277. Art. 88.
278. Art. 105(4).
279. Art. 124(3).
280. Art. 76(1).
281. Art. 76(4).
282. For instance, Art. 139A.
283. Art. 76(2); The Law Officers (Appointment and Conditions of Service) Rules, 1963.
284. Art. 76(3).
285. R.S. Deb., 8.5.1986, c. 228.
286. *Ibid.*, 29.4.1963, c. 1210-14.
287. *Ibid.*, 4.8.1993, c. 268-70.
288. *Ibid.*, 5.8.1993, c. 276-77; and BAC mts., 5.8.1993.
289. Bn. (II), 10.5.1988.
290. R.S. Deb., 11.5.1988, c. 339-64.
291. *Ibid.*, 19.12.1988, c. 8-15.
292. *Ibid.*, 20.12.1988, c. 153-54.
293. F. No. 1/67/88-B.
294. *Ibid.*
295. R.S. Deb., 2.1.1991, c. 835-43.
296. 10 Rpt., COSL, p. 4 and Appendix II.
297. 25 Rpt., COP, p. 2 and Appendix IV.
298. 27 Rpt., COP, p. 4 and Appendix II.
299. 19 Rpt. COP mts., p. 16 and 17.
300. Report of Jt. Committee on Contempt of Courts Bill, 1968, mts., 12.10.1969.
301. Report of Jt. Committee on Code of Criminal Procedure Bill, 1970, mts., 15.10.1971.
302. R.S. Deb., 3.4.1970, c. 58-118.
303. *Ibid.*, 4.4.1989, c. 52-53.
304. Abraham & Hawtray, *A Parliamentary Dictionary*.
305. Ivor Bulmer Thomas, *The Party System in Great Britain*, p. 110.
306. Address of the Hon'ble Chairman, Rajya Sabha at the inauguration of the Fourteenth All India Whips' Conference in Mumbai on 4 February 2008.
307. Until November 1973, he was designated as Secretary. For announcement of the change in the designation, see R.S. Deb., 15.11.1973, c. 153-54.
308. Secretary-General is placed in article 23 of the Warrant of Precedence.
309. R. 3.
310. R. 6.
311. R. 7.
312. R. 23.
313. R. 29.
314. R. 95(2) and 160(3).
315. R. 223.
316. R. 63 and 98.
317. Bn. (II), 21.5.1993 and 18.5.1994; Bn. (I), 26.7.1993 and 13.6.1994.
318. R. 135.
319. R.S. Deb., 13.3.1991 and 17.9.1991. The Indian Post Office (Amendment) Bill, 1986 was returned by the President and laid on the Table on 12.3.1990.
320. Bn. (I), 7.3.1991; and R.S. Deb., 16.7.1979, c. 3.
321. R. 145.
322. R. 144.
323. R. 213(6).

- 324. R. 79.
- 325. R. 84(2), 196(2), 208(2), 212E(2) *and* 212L(2).
- 326. Direction by the Chairman, Bn. (II), 25.1.1996; for Reports laid in pursuance of the Direction, *see* Bn. (I), 27.8.1996.
- 327. Bn. (I), 20.3.1967, 28.3.1967, 29.3.1967, 7.4.1967, 6.5.1978, 18.1.1985 *and* 22.1.1985.
- 328. *Ibid.*, 16.12.1985; GPC mts., 12.12.1985.
- 329. *Ibid.*, 8.12.1995.
- 330. R. 260.
- 331. R. 253(2) *and* 254(2).
- 332. Not. No. SO 367(E), 25.5.1976 (*Manual of Election Law*, Vol. I, p. 166).
- 333. Bhalerao, S.S., *The Second Chamber*, pp. 408-434.
- 334. R.S. Deb., 18.11.1963, c. 84-86.
- 335. *Ibid.*, 2.4.1976, c. 75-83.
- 336. *Ibid.*, 4.5.1981, c. 205-17.
- 337. *Ibid.*, 26.7.1993, c. 153-78.
- 338. *Ibid.*

## CHAPTER–5

### **Relationship between the constituents of Parliament**

#### **President and Parliament**

**U**nder the Constitution, the executive power of the Union is vested in the President and is exercised by him either directly or through officers subordinate to him.<sup>1</sup> Under article 73(1), the executive power of the Union is co-extensive with the legislative power of Parliament. Parliament consists of the President and the two Houses of Parliament – the Council of States (Rajya Sabha) and the House of the People (Lok Sabha).<sup>2</sup> Thus the President is the Head of executive as well as a constituent part of Parliament.

The Committee of Privileges had an occasion to consider the scope of article 79 of the Constitution, in the context of a breach of privilege notice arising out of some reflections cast on the person of the then President of India, Giani Zail Singh which was referred to the Committee for examination, investigation and report. The Attorney-General of India whose opinion was sought by the Committee in the matter opined:

Under article 79 of the Constitution there shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People. There is a similar provision in article 168 of the Constitution. Under article 168, the Governor of a State is a component part of the Legislature of the State. The Supreme Court in *Heochest Pharmaceuticals Ltd. and another vs. State of Bihar and others* (AIR 1983 SC 1019 at 1048) has observed, *inter alia* as follows:

The Governor is made a component part of the Legislature of a State under article 168 because every Bill passed by the State Legislature has to be reserved for the assent of the Governor under article 200.

On the same reasoning, on the scope of article 79 my view is that the President is made a component part of the Parliament as every Bill passed by the Houses of Parliament has to be reserved for the assent of the President under article 111 or article 368 of the Constitution.<sup>3</sup>

#### **Provisions regarding the President**

##### *Election*

The President is elected by the members of an electoral college consisting of the elected members of the both Houses of Parliament and

the elected members of the Legislative Assemblies of the States, by secret ballot, in accordance with the system of proportional representation by means of the single transferable vote.<sup>4</sup> The word “State” occurring in articles 54 and 55 would include the National Capital Territory of Delhi and the Union territory of Puducherry.<sup>5</sup>

The Constitution prescribes that as far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. For the purpose of securing such uniformity among the States *inter se* as well as parity between the States and the Union, the number of votes which each elected Member of Parliament and the Legislative Assembly of each State is entitled to cast at such election, is determined in the following manner:

- (a) every elected member of the Legislative Assembly of a State has as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;
- (b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in (a) above is further increased by one; and
- (c) each elected member of either House of Parliament has such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under (a) and (b) above by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.<sup>6</sup>

The Constitution (Eighty-fourth) Amendment Act, 2001 provides that until the relevant population figures for the first census to be taken after the year 2026 have been published, the population of the States for the purposes of calculated value of votes for the Presidential election shall mean the population as ascertained at the 1971 census.

To illustrate,

The representative capacity of an MLA from U.P. was fixed at 208 in the 2012 Presidential election by dividing 8,38,49,905 (being the total population of the State according to 1971 census) by 403 (No. of elected members of Vidhan Sabha) further divided by one thousand:

$$\frac{8,38,49,905}{403 \times 1000} = 208.06 = 208$$

Similarly, the value of vote of each member of the Sikkim Legislative Assembly was:

$$\frac{2,09,843}{32 \times 1000} = 6.55 = 7$$

Thereafter, in order to secure parity between the States as a whole and the Union, the total value of all the votes thus assigned to the elected members of the Legislative Assemblies was divided equally among 776 elected Members of Parliament.

The total value of votes assigned to the elected members of the Legislative Assemblies of the twenty-eight States, National Capital Territory of Delhi and Puducherry in the 2012 Presidential election came to 549474. This number was divided equally among the 776 elected members of Parliament (543 in Lok Sabha and 233 in Rajya Sabha). The value of vote of a Member of Parliament was thus ascertained to be 708.08, i.e., 708.

The elections to the offices of the President and the Vice-President are regulated by the Presidential and Vice-Presidential Elections Act, 1952, and the rules made thereunder. For the purposes of these elections, it has been the established practice that the Secretary-General of the Lok Sabha or the Rajya Sabha with the approval of the Speaker, Lok Sabha/Chairman, Rajya Sabha, as the case may be, is appointed in rotation as the Returning Officer to conduct such an election. One or more Assistant Returning Officers are appointed at the Centre and the names are suggested by the Returning Officer with the approval of Speaker/Chairman as the case may be.

For the first (1952), third (1962), fifth (1969), seventh (1977), ninth (1987) and eleventh (1997) Presidential elections, the Secretary/Secretary-General, Lok Sabha was appointed as Returning Officer. For the second (1957), fourth (1967), sixth (1974), eighth (1982), tenth (1992), twelfth (2002) and fourteenth (2012) Presidential elections, the Secretary/Secretary-General, Rajya Sabha was appointed as Returning Officer.

In the year 2012, the Election Commission of India appointed Secretary-General, Rajya Sabha as Returning Officer to conduct the 14<sup>th</sup> Presidential election. The Secretary-General, Lok Sabha was appointed as Returning Officer to conduct the Vice-Presidential election in 2012. The Secretary-General, Rajya Sabha in 1997 was to be appointed as Returning Officer to conduct the Vice-Presidential election, as per established practice for these elections. However, a departure to the practice was made by Election Commission of India in appointing the Secretary, Ministry of Parliamentary

Affairs as Returning Officer for the election of Vice-President of India on 14 July 1997.<sup>7</sup> Accordingly, Secretary, Ministry of Parliamentary Affairs conducted the whole process of Vice-Presidential election and Secretary-General, Rajya Sabha or Rajya Sabha Secretariat did not play any role in conducting the said election.

The various stages of the election, which are notified in the Official Gazette by the Election Commission are: (i) the last date for making nominations, which is the fourteenth day after the date of publication of the notification regarding the election; (ii) the date for the scrutiny of nominations, which is the day immediately following the last date for making nominations; (iii) the last date for the withdrawal of candidature, which is the second day after the date of the scrutiny of nominations; and (iv) the date of the poll, if necessary, which is a date not earlier than the fifteenth day after the last date for the withdrawal of the candidature. If any of the dates, either for making nominations or for their scrutiny or the withdrawal of candidature is a public holiday, the next succeeding day which is not a public holiday, is taken as the appropriate date for the purpose.<sup>8</sup> The notification of an election to fill a vacancy caused by the expiration of the term of office of the President, is issued, on or as soon as convenient may be after the sixtieth day before the expiration of the term of office of the outgoing President notwithstanding the fact that at the time of such election the Legislative Assembly of a State was dissolved<sup>9</sup> and the dates are so appointed that the election is completed at such time as will enable the President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President. In the case of an election to fill a vacancy occurring by reason of the President's death, resignation, removal or otherwise, the notification is required to be issued, as soon as may be, after the occurrence of the vacancy.<sup>10</sup>

The Act of 1952 provides that the nomination paper for the Presidential election should be subscribed by at least fifty electors as proposers and at least fifty electors as seconders and that no elector should subscribe, whether as proposer or seconder, more than one nomination at the same election.<sup>11</sup> The candidate is also required to deposit fifteen thousand rupees for being regarded as duly nominated for election.<sup>12</sup> For being eligible to contest the election to the office of the President, a candidate does not have to take oath/make affirmation, as a candidate standing for election to Parliament has to.<sup>13</sup>

Fourteen Presidential elections (1952-2012) have been held so far. The following table gives the detailed programme of elections and also the dates of assumption of office by the respective Presidents:

**Table**

Name of the Elected Candidate and year	Date of Notification	Last date for Nomination	Date of Scrutiny	Last date for Withdrawal	Date of Poll	Date of Counting & Declaration of Result	Date of Assumption of Office	
1. Dr. Rajendra Prasad	1952	04.04.52	12.04.52	14.04.52	17.04.52	02.05.52	06.05.52	13.05.52
2. Dr. Rajendra Prasad	1957	06.04.57	16.04.57	17.04.57	20.04.57	06.05.57	10.05.57	13.05.57
3. Dr. S. Radhakrishnan	1962	06.04.62	16.04.62	18.04.62	21.04.62	07.05.62	11.05.62	13.05.62
4. Dr. Zakir Husain	1967	03.04.67	13.04.67	15.04.67	18.04.67	06.05.67	09.05.67	13.05.67
5. Sh. V.V. Giri	1969	14.07.69	24.07.69	26.07.69	29.07.69	16.08.69	20.08.69	24.08.69
6. Sh. Fakhruddin Ali Ahmed	1974	16.07.74	30.07.74	31.07.74	02.08.74	17.08.74	20.08.74	24.08.74
7. Sh. N. Sanjiva Reddy	1977	04.07.77	18.07.77	19.07.77	21.07.77	06.08.77	21.07.77	25.07.77
8. Giani Zail Singh	1982	09.06.82	23.06.82	24.06.82	26.06.82	12.07.82	15.07.82	25.07.82
9. Sh. R. Venkataraman	1987	10.06.87	24.06.87	25.06.87	27.06.87	13.07.87	16.07.87	25.07.87
10. Dr. Shanker Dayal Sharma	1992	10.06.92	24.06.92	25.06.92	27.06.92	13.07.92	16.07.92	25.07.92
11. Sh. K.R. Narayanan	1997	09.06.97	23.06.97	24.06.97	26.06.97	14.07.97	17.07.97	25.07.97
12. Dr. A.P.J. Abdul Kalam	2002	11.06.02	25.06.02	26.06.02	28.06.02	15.07.02	18.07.02	25.07.02
13. Smt. Pratibha Devi Singh Patil	2007	16.06.07	30.06.07	02.07.07	04.07.07	19.07.07	21.07.07	25.07.07
14. Sh. Pranab Mukherjee	2012	16.06.12	30.06.12	02.07.12	04.07.12	19.07.12	22.07.12	25.07.12

***Qualifications***

A person eligible for election as President should be a citizen of India, not less than thirty-five years in age, should be qualified to be a member of the Lok Sabha and should not hold an office of profit under the Government of India or a State Government or under any local or other authority subject to the control of any of the said Governments. The offices of the President, Vice-President, Governor of a State or the Minister for the Union or a State, are not offices of profit for this purpose.<sup>14</sup> Certain offices of profit under the Government have also been declared as not to disqualify the holders thereof for being chosen as President under section 3 of the Parliament (Prevention of Disqualification) Act, 1959. A Member of Parliament or of a State Legislature including the respective Presiding Officers can seek election to the office of the President but if any one of them is elected President, he is deemed to have vacated his seat in Parliament or the State Legislature as the case may be, on the date on which he enters upon his office as President.<sup>15</sup>

Dr. S. Radhakrishnan (1962), Dr. Zakir Husain (1967), Shri R. Venkataraman (1987), Dr. Shanker Dayal Sharma (1992), and Shri K. R. Narayanan (1997) who contested election to the office of the President, did not resign from the office of the Vice-President. In 1969, however, Vice-President Shri V.V. Giri and Speaker Shri N. Sanjiva Reddy, and in 1977, Speaker Shri N. Sanjiva Reddy resigned their respective offices before filing their nomination papers for the Presidential elections.

#### *Term of office*

The President holds office for a term of five years from the date on which he enters upon his office.<sup>16</sup> Notwithstanding the expiration of his term, he continues to hold his office until his successor enters upon the office. A person who holds, or has held, office as President is, subject to the other provisions of the Constitution, eligible for re-election to that office.<sup>17</sup> The President may resign before the expiration of his term of office by writing under his hand addressed to the Vice-President. The resignation is forthwith required to be communicated to the Speaker of the Lok Sabha.

On the death of President, Dr. Zakir Husain, the Vice-President, Shri V.V. Giri was acting as President. Shri Giri resigned from the office of the Vice-President by addressing his resignation to the President, without stating, as advised by the Attorney-General, the office he was then holding and the resignation was deposited by him in the President's Secretariat. Copies of the letter of resignation were sent to the Prime Minister and the Chief Justice of India for information. The letter was also notified in the Gazette the same day.<sup>18</sup> It was held that the resignation was a process of demitting office, that the office of President continued to exist even when its incumbent was not there, that the Constitution did not require the resignation to be accepted to make it effective and that the law envisaged the possibility of the Vice-President resigning even when there was no President.<sup>19</sup>

#### *Impeachment*

The President may also be removed from office before the expiration of his term by impeachment for violation of the Constitution.<sup>20</sup> When this is to be done, the charge has to be preferred by either House of Parliament.<sup>21</sup> No such charge can be preferred unless—

- (a) the proposal to prefer such charge is contained in a resolution, which has been moved after at least fourteen days' notice in writing, signed by not less than one-fourth of the total number of members of the House, has been given of their intention to move the resolution; and

- 
- (b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

When a charge has been so preferred by either House of Parliament, the other House is to investigate the charge or cause the charge to be investigated and the President has the right to appear and to be represented at such investigation. The conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of such charge.

If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution has the effect of removing the President from his office as from the date on which the resolution is so passed.<sup>22</sup>

#### *Oath of office*

Before the President enters upon his office, an oath of office is administered to him in the Central Hall of Parliament or the Rashtrapati Bhawan by the Chief Justice of India or in his absence, by the senior-most Judge of the Supreme Court available, in the form set out in article 60 of the Constitution.

#### *Succession to Presidency*

The Constitution provides that where a vacancy in the office of the President occurs by reason of his death, resignation or removal or otherwise, the Vice-President acts as the President until the new President enters upon his office and the election is required to be held within six months from the date of occurrence of the vacancy.<sup>23</sup> The Constitution also provides that when the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.<sup>24</sup> However, the Constitution does not provide for cases where a vacancy occurs in the offices both of the President and the Vice-President simultaneously, or where the Vice-President while acting as, or discharging the functions of, the President is unable to do so. The Constitution has, therefore, empowered Parliament to make such provisions as it thinks fit for the discharge of the functions of the President in any contingency not provided for in the Constitution.<sup>25</sup> Parliament has accordingly, enacted the President (Discharge of Functions) Act, 1969, whereunder in such cases, the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court discharges the functions of the President.

When the Vice-President, Shri V.V. Giri, who was acting as the President in the vacancy caused by the death of the President, Dr. Zakir Husain, resigned from the office of the Vice-President with effect from the forenoon of 20 July 1969, the Chief Justice of India, Shri M. Hidayatullah, discharged the functions of the President from the forenoon of the said date.<sup>26</sup>

#### *Powers and functions in respect of Parliament*

The Constitution confers several powers on the President in relation to Parliament. He summons from time to time each House of Parliament, may from time to time prorogue the Houses or either House and dissolve the Lok Sabha.<sup>27</sup> At the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session of each year, the President addresses both Houses of Parliament assembled together and informs Parliament of the causes of its summons.<sup>28</sup> He has also the right to address either House of Parliament or both Houses assembled together and send messages to either House, whether with respect to a Bill then pending in Parliament or otherwise.<sup>29</sup>

The President appoints a *pro tem* Chairman of the Rajya Sabha<sup>30</sup> and *pro tem* Speaker of the Lok Sabha<sup>31</sup> in certain circumstances. Every member of Parliament, before taking his seat in the House, is required to make and subscribe the oath or affirmation before the President or before the person appointed by him in that behalf.<sup>32</sup> The President nominates to the Rajya Sabha twelve persons having special knowledge and practical experience in respect of such matters as literature, science, art and social service.<sup>33</sup> The President also nominates to the Lok Sabha not more than two members to represent the Anglo-Indian community, if he is of the opinion that the community is not adequately represented in the Lok Sabha.<sup>34</sup> The President also decides the question of disqualification of a Member of Parliament under article 102.<sup>35</sup>

In the case of disagreement between the two Houses on a Bill (other than a Money Bill), the President summons a joint sitting of both Houses.<sup>36</sup> The President has, after consultation with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha, made rules (i) as to the procedure with respect to joint sittings of, and communications between, the two Houses<sup>37</sup> and (ii) regulating the recruitment and the conditions of service of persons appointed to the secretarial staff of the respective Houses. The latter rules are, however, subject to any law made by Parliament.<sup>38</sup>

The President's recommendation is required for (i) introduction of Bills and for moving amendments relating to financial matters,<sup>39</sup> (ii) introduction of a Bill relating to formation of new States or alteration

of areas, boundaries or names of existing States,<sup>40</sup> (iii) introduction of a Bill or moving of an amendment affecting taxation in which States are interested,<sup>41</sup> and (iv) consideration of a Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India.<sup>42</sup>

After a Bill has been passed by the Houses of Parliament, it is presented to the President who may either assent to the Bill or withhold the assent. He may return the Bill, if it is not a Money Bill, to the Houses with a message for reconsideration of the Bill or any specific provision thereof and, in particular, for consideration of the introduction of any amendment he may recommend in his message. When a Bill is so returned the Houses have to reconsider the Bill accordingly. If the Bill is passed again by the Houses with or without amendment, the President cannot withhold assent therefrom.<sup>43</sup> The President causes to be laid before both Houses of Parliament in respect of every financial year, a statement of the estimated receipts and expenditure of the Government of India. (*i.e.*, Budget) for that year,<sup>44</sup> statements showing supplementary or additional grants (and before the Lok Sabha, excess grants),<sup>45</sup> reports of constitutional functionaries or bodies such as Comptroller and Auditor-General of India,<sup>46</sup> Finance Commission,<sup>47</sup> Union Public Service Commission,<sup>48</sup> Commissioner for the Scheduled Castes and Scheduled Tribes,<sup>49</sup> Backward Classes Commission<sup>50</sup> and Commissioner for Linguistic Minorities.<sup>51</sup>

If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require. An Ordinance so promulgated has the same force and effect as an Act of Parliament and is required to be laid before both Houses of Parliament. It ceases to operate at the expiration of six weeks from the reassembly of Parliament, or if before the expiry of that period, resolutions disapproving the Ordinance are passed by both Houses, then upon the passing of the second of those resolutions. It can be withdrawn at any time by the President.<sup>52</sup>

If the President is satisfied that a grave emergency exists whereby the security of India or any part of its territory is threatened, whether by war or external aggression or armed rebellion,<sup>53</sup> or there is a failure of constitutional machinery in a State,<sup>54</sup> or a situation has arisen whereby the financial stability or credit of India or of any part of its territory is threatened,<sup>55</sup> he issues a Proclamation for the purpose. These Proclamations are required to be laid before both Houses of Parliament and are subject to approval by them.

### Procedural restrictions in the House

One of the rules to be observed by members while speaking in the House is that a member shall not use the President's name for the purpose of influencing the debate<sup>56</sup> and another rule forbids a member from reflecting upon the conduct of persons in high authority. The President is one of such persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution (*i.e.*, impeachment). Yet another rule provides that a question shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion.

During the course of discussion on the Finance Bill, 1970, a member brought in the name of the President. The Vice-Chairman stated that the conduct of the President should not be discussed. When another member tried to make a distinction between the office of the President and his person and stated that a member was free to criticise the President in his individual capacity, the Vice-Chairman, *inter alia*, ruled: "...I think it will be a very dangerous precedent if I hold that a person so long as he occupies that position should be separate from the office. So neither by the name of the President nor, so long as he is the President, by the name...should we discuss his conduct."<sup>57</sup>

The rules mentioned above are, therefore, intended to respect and honour the institution and keep the office of the President above controversy.

However, there have been instances and occasions when matters relating to the President have been raised in the Rajya Sabha, sometimes touching upon constitutional aspects or at some other times concerning the office or person of the President. Such instances are mentioned below:

Dr. Rajendra Prasad had delivered a speech at the Indian Law Institute in November 1960 wherein he had asked lawyers to study scientifically to what extent and in respect of which matters the powers and functions of the President of India differed from those of the British Crown. While speaking on the Motion of Thanks on the President's Address a member referred to that speech and said that the President should not have raised such issue as it was likely to give rise to very serious political controversies. The Minister of Home Affairs asked whether it was open to the Council to discuss any statement made by the President outside or any action taken by the President as such. Thereupon the Deputy Chairman, who was then in the Chair, ruled: "We are not concerned with what the President had said elsewhere, and you cannot discuss it here, nor can you cast any reflections."<sup>58</sup>

On the morning of 13 March 1987, a Delhi-based newspaper published what purported to be the text of a letter written by the President to the Prime Minister. The Chairman permitted three opposition members to mention the matter in the House that day.<sup>59</sup> The matter was raised again on 17 March 1987, when the Chairman informed that he would go into the matter in depth.<sup>60</sup> On 20 March 1987, the Chairman permitted leaders of opposition groups to express their views and thereafter gave an elaborate ruling, quoting from the Constituent Assembly Debates, alluding to the Supreme Court decisions and the House of Commons practice, on the question whether any matter communicated or purported to be communicated by the Head of the State to the Head of the Government and *vice versa* could be raised in the Houses of Parliament. He did not permit any discussion on the issue on the floor of the House, as demanded by the members “in view of the express provision, background, philosophy and provisions of the Constitution, the corroborative position in the House of Commons and the evolution of convention in this regard.”<sup>61</sup>

On 13 September 1991, at the commencement of Question Hour, a member referred to the refusal by the President to meet a delegation of SC/ST M.Ps. at Rashtrapati Bhawan and stated that due to this humiliation they were boycotting the proceedings of both Houses of Parliament that day.<sup>62</sup> The matter was raised again the next day. Although some views were expressed, at one stage the Vice-Chairman stated, “we cannot discuss about the President...that is our convention.”<sup>63</sup>

On 9 May 1984, a member drew the attention of the House to “a most libellous statement made against our President” in the Sunday Observer of 29 April 1984, and demanded that action should be taken against the author, editor, printer and publisher for maligning the Head of the State.

The Leader of the House, *inter alia*, stated, “we have to examine what is possible to be done within the framework of the existing law. If we find that it is not adequate, definitely, to protect the prestige, honour of the high office, something has to be done. If the existing legal arrangement is found not adequate, we will have to think of even going for a legislation and bringing some sort of Act.”<sup>64</sup> Subsequently, the member gave notice of breach of privilege against the magazine since he was also referred to in the article in an objectionable manner. The matter was referred to the Committee of Privileges. While stating that no breach of privilege of the member concerned was involved, the Committee observed: “The writer has denigrated and demeaned the person of the President. Such an act and the article deserve to be strongly condemned by all.” The Committee had no doubt that the Government would take suitable action against the writer, etc. as stated by the Leader of the House.<sup>65</sup>

The matter of reflection on the person of the President again came up in the House in the context of a statement reported to have been made by a functionary of a political party and published in a newspaper under the caption: "Zail part of plot to destabilise Government". The Chairman referred the matter to the Committee of Privileges to specifically address itself, *inter alia*, to the scope of article 79 of the Constitution and whether aspersions cast on the President could be termed as derogatory to the institution of Parliament, whether the impugned remarks had a tendency, directly or indirectly to bring the institution of Parliament, into disrepute and amounted to breach of privilege of the House. The Committee of Privileges obtained the information in respect of U.K., Canada and Australia and also the opinion of the Attorney-General in the matter. The latter was of the view that in terms of article 105(3) of the Constitution, privileges were conferred not on the Parliament as such but only on each House of Parliament and on members and Committees of each House. No powers, privileges or immunities as such had been conferred on the President as a component part of Parliament. The Committee, however, did not express any opinion on the issues referred to it. In view of the change of circumstances which had occurred since four years when the matter was referred to the Committee, it recommended that the matter might be treated as closed.<sup>66</sup>

### **Disturbances during the Address**

On 18 February 1963, during the President's Address a member of the Rajya Sabha caused interruption and walked out of the Central Hall. Next day all sections of the House expressed regret over the incident and desired that the sentiments be conveyed to the President, which was done by the Chairman. The President also in his letter to the Chairman appreciated the sentiments expressed by the Rajya Sabha.<sup>67</sup> Reflecting on that particular incident, Shri Jawaharlal Nehru in one of his letters to the Chief Ministers wrote:

'This incident, the first of its kind in Parliament, lasted only two or three minutes or less. Nevertheless, it was most regrettable. It appears that the Socialist Party in particular is bent on creating trouble in Parliament, and thus bringing the whole process of democratic parliamentary procedure into disrepute.'<sup>68</sup>

On 23 March 1971, again three members of the Rajya Sabha created obstructions at the President's Address. On 7 April 1971, the Rajya Sabha discussed a motion condemning "undesirable, undignified and unbecoming behaviour" of the concerned members. The discussion, however, remained inconclusive and was not resumed.<sup>69</sup>

## **Relations between the Houses**

The Constitution envisages that both Houses have equal status and position. The two Houses have to function within the areas allotted to them under the Constitution. While the Lok Sabha has been given certain special powers in certain matters, the Rajya Sabha too has been invested with some other special powers. The Lok Sabha has three special or exclusive powers, namely, that the Council of Ministers is collectively responsible to that House,<sup>70</sup> the demands for grants are submitted to the Lok Sabha and it has the power to assent, or to refuse to assent, to any demand or to assent to any demand subject to a reduction of the amount specified therein<sup>71</sup> and a Money Bill or a Financial Bill containing money-clauses cannot be introduced in the Rajya Sabha or in other words such a Bill can be introduced only in the Lok Sabha.<sup>72</sup>

The Rajya Sabha also has three special or exclusive powers which are contained in articles 249, 312, 352, 356, and 360. Under article 249, the Rajya Sabha can pass a resolution by a majority of not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List. Similarly, if Rajya Sabha passes a resolution under article 312 for the creation of one or more all-India services common to the Union and the States, Parliament has the power to create by law such services. Under articles 352, 356, and 360, the Rajya Sabha can approve the Proclamations initially or extend them subsequently while the Lok Sabha has been dissolved or dissolution takes place within the period allowed for its approval.

Barring these matters, there exists a perfect equality between the two Houses. The Constitution requires the laying of a number of papers on the Table in both the Houses, notably amongst them are the Budget, supplementary demands for grants, Ordinances and Proclamations issued by the President, reports of Constitutional functionaries such as the Comptroller and Auditor-General, the Finance Commission, the Commissioner for the Scheduled Castes and Scheduled Tribes, the Backward Classes Commission, the Commissioner for Linguistic Minorities.<sup>73</sup> Both Houses also participate in matters of elections of the President and the Vice-President, impeachment of the President, removal of the Vice-President, a Judge of the Supreme Court or of a High Court.<sup>74</sup>

The relationship between the Houses is further laid down in the rules made by the President, after consultation with the Chairman, Rajya Sabha and the Speaker, Lok Sabha, in pursuance of article 118(3) of the Constitution, with respect to joint sittings of, and communications between, the two Houses.<sup>75</sup>

### **Communications between the Houses**

Communication between the Houses is by means of a written message from one House to another, signed by its Secretary-General. The message is reported to the House by the Secretary-General concerned, at the first convenient opportunity after its receipt, if the House is in session. If the House is not in session, members are informed of the message through a paragraph in the Bulletin of the House. The subject-matter of the message is dealt with according to the Rules of Procedure and Conduct of Business.<sup>76</sup>

The occasions for communication of messages arise in cases of Bills, motions and resolutions. In respect of Bills, messages are sent by the Rajya Sabha to the Lok Sabha in the following eventualities:

- (1) A Bill introduced in and passed by the Rajya Sabha is transmitted to the Lok Sabha for concurrence.<sup>77</sup>
- (2) A Bill transmitted to the Lok Sabha for concurrence is returned to the Rajya Sabha with amendment and the Rajya Sabha agrees or does not agree to the amendment or proposes further or alternative amendment.<sup>78</sup>
- (3) A Bill originating in and passed by the Lok Sabha and transmitted to the Rajya Sabha for concurrence is passed by the Rajya Sabha without or with amendment.<sup>79</sup>
- (4) A Bill passed by the Lok Sabha is returned to that House with amendment by the Rajya Sabha and the Lok Sabha does not agree with the amendment made by the Rajya Sabha or proposes further amendments and the Rajya Sabha agrees to the Bill as originally passed in the Lok Sabha or as further amended by it or insists on an amendment or amendments to which the Lok Sabha has disagreed.<sup>80</sup>
- (5) A Money Bill passed by the Lok Sabha is returned to that House without making any recommendations or with amendments recommended.<sup>81</sup>

Messages are also sent to other House in respect of motions and resolutions:

- (1) Motion seeking to withdraw a Bill passed by the Lok Sabha and pending in the Rajya Sabha.<sup>82</sup>
- (2) Motion referring a Bill to a Joint Committee of Houses for concurrence and communication of names of members of the Lok Sabha to serve on the Committee.<sup>83</sup>

- 
- (3) Motion communicating the extension of time for the presentation of a report of the Joint Committee.<sup>84</sup>
  - (4) Motion requesting the Lok Sabha to appoint members to fill the vacancies occurring in the Joint Committee either by death, resignation, or otherwise of members of that House serving on the Joint Committee.
  - (5) Communication of names of members of the Rajya Sabha to serve on the Committee on Public Accounts, Committee on Public Undertakings, Railway Convention Committee and other Joint Parliamentary Committees.
  - (6) Amendments made in any rule, regulation, etc. (statutory instrument) for concurrence of the Lok Sabha.
  - (7) Resolution amending a “President’s Act” made under a State Legislature (Delegation of Powers), Act in respect of a State under President’s Rule, for concurrence of the Lok Sabha.

### **Joint sitting of the Houses**

The Constitution of India envisages a mechanism for resolving disagreement between the two Houses in respect of a Bill, other than a Money Bill or a Constitution Amendment Bill. In case of a Money Bill, the powers of the Rajya Sabha are limited to retaining or delaying the Bill passed by the Lok Sabha for a period of fourteen days only and recommending an amendment or amendments in the Bill which may or may not be accepted by the Lok Sabha. In case of a Constitution Amendment Bill, if both Houses do not pass such a Bill in identical terms, in accordance with article 368, that is the end of that Bill.

When a Bill, other than a Money Bill or a Constitution Amendment Bill, passed by one House is rejected by the other House or the Houses have finally disagreed as to the amendments to be made in the Bill or more than six months elapse from the date of the receipt of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by reason of dissolution of the Lok Sabha, notify to the Houses by message, if they are sitting, or by public notification, if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill.<sup>85</sup>

When the President has notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill and the President may thereafter issue an order summoning the Houses to meet in a joint sitting.<sup>86</sup> Once the President has notified his intention to

summon the Houses for a joint sitting, it may be held and a Bill passed thereat, notwithstanding that a dissolution of the Lok Sabha has intervened since then.<sup>87</sup>

Secretary-General of the Lok Sabha, who acts as the Secretary-General at the joint sitting issues a summon to each member of the Lok Sabha and the Rajya Sabha specifying the time and place fixed by the President for the joint sitting.<sup>88</sup> The Speaker and in his absence the Deputy Speaker of the Lok Sabha or if he is also absent, the Deputy Chairman of the Rajya Sabha or if, he/she too is absent, such other person as may be determined by the members present at the sitting, presides over the joint sitting.<sup>89</sup> The procedure of the Lok Sabha applies at a joint sitting with such modifications and variations as the Speaker may consider necessary or appropriate. The Speaker also determines the hour upon which a joint sitting shall adjourn and the day and hour or the part of the same day to which it shall be adjourned. The quorum to constitute a joint sitting is one-tenth of the total number of members of the two Houses.<sup>90</sup>

If at a joint sitting, the Bill referred to it, with such amendments, if any, as are agreed to in the joint sitting is passed by a majority of the total number of members of both Houses present and voting, it is deemed, for the purposes of the Constitution, to have been passed by both Houses. At a joint sitting no amendment can be proposed to the Bill, other than such amendments, if any, as become necessary by the delay in its passage and such other amendments as relate to matters with respect to which the Houses have not agreed. The decision of the person presiding as to the admissibility of amendments is final.<sup>91</sup> At a joint sitting, the Speaker or the person presiding as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of equality of votes.<sup>92</sup>

### **Joint sittings held so far**

The first occasion arose when there was a disagreement between the two Houses in respect of certain amendments to be made in the Dowry Prohibition Bill, 1959. The Rajya Sabha made the following three amendments in the Bill as passed by the Lok Sabha:

- (i) The Bill originally defined the term ‘Dowry’ in clause 2, to mean any property or valuable security given or agreed to be given by one party to the marriage to the other party or by parents of either party or by any other person to either party to the marriage or to any other person at or before or after the marriage, as consideration for the

marriage. The Rajya Sabha added the words “either directly or indirectly” to make the definition read, *inter alia*, as ‘dowry’ means any property or valuable security given or agreed to be given either directly or indirectly... etc.

- (ii) By the Second amendment the Rajya Sabha deleted Explanation 1 to clause 2 which declared that any presents made at the time of marriage in the form of cash, ornaments, etc. would not be deemed to be dowry unless they were made as consideration for marriage.
- (iii) Clause 4 of the Bill provided for punishment of imprisonment extending to six months or fine extending to five thousand rupees or with both. The Rajya Sabha’s amendment deleted this clause.<sup>93</sup>

The Lok Sabha considered these amendments but did not agree to any of them<sup>94</sup> and sent a message to the Rajya Sabha accordingly.<sup>95</sup> While returning the Bill, the Lok Sabha also made formal amendments to the enacting formula and clause 1 of the Bill and requested Rajya Sabha’s concurrence therefor.

The Rajya Sabha reconsidered its amendments and considered the formal amendments made by the Lok Sabha.<sup>96</sup> After adoption of the Motion for consideration of the amendments, the Minister of Law moved that the House did not insist on the amendments of clauses 2 and 4 (separate motions were moved in respect of all the three amendments) and agreed with the two amendments made by the Lok Sabha. While the motions in respect of amendments were negative, the one relating to formal amendments of the Lok Sabha was adopted.<sup>97</sup>

Two messages were accordingly sent to the Lok Sabha; one, informing that the Rajya Sabha had agreed to the amendments made by the Lok Sabha and the second, that the Rajya Sabha had insisted on the amendments made by it to which the Lok Sabha had disagreed.<sup>98</sup> Thus, the Houses were deemed to have finally disagreed to the amendments,<sup>99</sup> attracting the provision of article 108.

The President, therefore, notified his intention to summon the Rajya Sabha and the Lok Sabha to meet in a joint sitting for the purpose of deliberating and voting on the Bill. The message of the President was conveyed by the Chairman to the House.<sup>100</sup> The joint sittings were accordingly held in the Central Hall of Parliament on 6 and 9 May 1961 and the Bill was passed on the latter day with the first amendment to clause 2 (namely, insertion of words “either directly or indirectly” in the definition of dowry) suggested by the Rajya Sabha being accepted and the second one suggesting deletion of Explanation 1 to that clause not having been agreed. In respect

of the third amendment suggesting omission of clause 4, the joint sitting did not agree; however, a proviso was added to the clause barring the jurisdiction of courts to take cognizance of any offence except with the previous sanction of State Government or its specified officer. The formal amendments were also adopted and the Bill, as amended, was passed.<sup>101</sup>

The second occasion arose following the rejection of the Banking Service Commission (Repeal) Bill, 1977 by the Rajya Sabha. The motion for consideration of the Bill as passed by the Lok Sabha was negatived by the Rajya Sabha on 8 December 1977, and a message was communicated to the Lok Sabha to that effect. The President by his message notified his intention to summon the Rajya Sabha and the Lok Sabha to meet in a joint sitting for the purpose of deliberating and voting on the Bill. The message of the President was conveyed to the House by the Chairman.<sup>102</sup> Accordingly, a joint sitting was held on 16 May 1978 in the Central Hall of Parliament and the Bill as amended was passed.<sup>103</sup>

The third occasion arose when the Rajya Sabha in its sitting held on 21 March 2002<sup>104</sup> adopted the statutory resolution moved by a member disapproving the Prevention of Terrorism (Second) Ordinance, 2001 promulgated by the President on 30 December 2001 and negatived the motion for consideration of the related Bill, namely, the Prevention of Terrorism Bill, 2002 as passed by the Lok Sabha moved by the Minister of Home Affairs. Following rejection of the Bill by the Rajya Sabha a message was transmitted to the Lok Sabha to that effect.

The Bill having been passed by the Lok Sabha and its rejection by the Rajya Sabha, thus attracted the provision of clause (a) of article 108 of the Constitution. The President notified his intention to summon the Rajya Sabha and the Lok Sabha to meet in a joint sitting for the purpose of deliberating and voting on the Bill which was conveyed to the Rajya Sabha by the Minister of Parliamentary Affairs.

The Chairman on 22 March 2002<sup>105</sup> made an announcement in the House about the message of the President. Accordingly, a joint sitting of both the Houses was held on 26 March 2002 in the Central Hall of Parliament and the Bill was passed in the manner it was passed by the Lok Sabha.

As may be seen from the wordings of article 108, the provision of calling a joint sitting is only an enabling one, empowering the President to take steps for resolving legislative deadlock between the Houses. It is not obligatory upon the President to resort to the said provision. Moreover, the provision does not bar the second House from passing a Bill after lapse of six months provided that it has not lapsed due to dissolution of the

Lok Sabha or the President has not already notified his intention to convene a joint sitting. There are instances when a House of Parliament has passed the Bill after a lapse of six months from its receipt from the originating House. A few instances of such Bill are mentioned below:

The Representation of the People (Second Amendment) Bill, 1964 (passed by the Lok Sabha on 27 November 1964 and the Rajya Sabha on 2 September 1965); the Warehousing Corporations (Supplementary) Bill, 1964 (passed by the Lok Sabha on 27 November 1964 and the Rajya Sabha on 6 September 1965); the Architects (Amendment) Bill, 1980 (passed by the Rajya Sabha on 3 December 1980 and the Lok Sabha on 29 April 1982); the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980 (passed by the Rajya Sabha on 11 December 1980 and the Lok Sabha on 16 October 1982); the Special Courts (Repeal) Bill, 1980 (passed by the Rajya Sabha on 19 August 1981 and the Lok Sabha on 29 July 1982); the Dock Workers (Safety, Health and Welfare) Bill, 1986 (passed by the Lok Sabha on 2 December 1985 and the Rajya Sabha on 10 November 1986); the Repealing and Amending Bill, 1986 (passed by the Rajya Sabha on 28 July 1986 and the Lok Sabha on 23 February 1988); the Prevention of Corruption Bill, 1987 (passed by the Lok Sabha on 7 May 1987 and the Rajya Sabha on 11 August 1988); the National Institutes of Technology (Amendment) Bill, 2012 (passed by the Lok Sabha on 19 August 2011 and the Rajya Sabha on 30 April 2012. Formal amendments made by Rajya Sabha were agreed to by Lok Sabha on 11 May 2012); and the Institutes of Technology (Amendment) Bill, 2012 (passed by the Lok Sabha on 24 March 2011 and the Rajya Sabha on 30 April 2012. Formal amendments made by Rajya Sabha were agreed to by Lok Sabha on 11 May 2012).

### **Inter-relationship through practice and procedure**

Apart from the constitutional provisions, Rules of Procedure also contribute to the development of healthy and smooth relationship between the two Houses.

For instance, one of the rules which a member has to observe while speaking in the House is that he should not use offensive expression about the conduct or proceedings of the other House (as well as one's own House).<sup>106</sup>

In August 1977, when the Lok Sabha rejected the recommendation made by the Rajya Sabha for an amendment in the Finance Bill,<sup>107</sup> a member used a couple of strong words to criticise the attitude of the Lok Sabha but was careful about the dignity of the Lok Sabha when at the very outset he said, ...“we are fully conscious of the fact that the Constitution gives a special status in regard to Finance Bills or Money Bills of this type to the Lok Sabha which is a directly elected

body. Therefore, Sir, what I may say in this connection would in no way be any manner of reflection on the Lok Sabha, its prestige and dignity, much less of its members collectively.”<sup>108</sup>

There also exists a long tradition in the House of not referring to any incident in the other House or even not quoting from the proceedings of the other House. However, a slight departure has been made in the House in this regard:

On an occasion, a Member while speaking on the Salaries and Allowances of Officers of Parliament Bill, 1953 quoted extensively from the speeches made in the Lok Sabha. The Vice-Chairman observed:

It will be better if you do not refer to the speeches in the other House, but make an observation on them...That is the usual convention...You relate it in your own words.<sup>109</sup>

Again, when a Member was making his speech on a short duration discussion on the purchase of guns from Bofors of Sweden, he referred to what happened in the Lok Sabha, the previous day.

Disallowing the member to make any reference to what happened in the other House, the Chairman observed:

I want to tell the member, except points of policy, etc., you don't discuss what happened in the other House in this House.<sup>110</sup>

Another rule provides that no allegation of a defamatory or incriminatory nature should be made by a member against any member of the other House.<sup>111</sup> It is also a convention that a member of one House is not criticised by the name in the other House, all reference to the members of the other House are scrupulously avoided.

On an occasion, a member made certain allegations against a member of the Lok Sabha. The Chairman asked the member alleging to substantiate the allegation. While closing the matter thereafter, the Chairman, *inter alia*, observed: “...members who are not in a position to substantiate charges... should not make such statements. Allegations and counter-allegations.... detract from the dignity of Parliament... I would like to add that it would be a good rule to observe that members of one House should not use the freedom of speech on the floor of the House to make allegations or charges against members of the other House.”<sup>112</sup>

While participating in the discussion on the Appropriation Bill, 1970, a member took the names of certain members of the Lok Sabha and alleged that there were rumours that those members were trying to

purchase M.Ps.<sup>113</sup> Next day, when the matter was again raised, the Deputy Chairman left it to the member concerned to withdraw the objectionable remarks, and if he did not withdraw it, he stated further that if the allegations were not true any member was at liberty to take the next step according to the Rules of Procedure and Conduct of Business of the House.<sup>114</sup> When the matter was raised on the third day also, the Deputy Chairman deprecated the observations of the concerned member.<sup>115</sup> The issue was also raised in the Lok Sabha.<sup>116</sup> Thereafter, the Speaker, Lok Sabha addressed a letter to the Chairman inviting his attention to the matter and observing, *inter alia*, “you will agree that it is not desirable for members of one House to make allegations or cast reflections on the floor of the House on the members of the other House”. In his reply, the Chairman expressed his agreement with the Speaker and informed him that the Deputy Chairman had already deprecated the observations of the member making allegations.<sup>117</sup>

Again, when in the course of a discussion on a calling attention regarding serious allegations of use of money power in the biennial elections to the Rajya Sabha, a member mentioned the name of a member of the other House, the Chairman observed:

...it is not right that names should be mentioned of those who are not present here to protect themselves. It is not fair to them especially to those who are in the other House... it is not right to cast reflections on them.

The Chairman also informed that in this connection he had received a letter from the Speaker. The Chairman, therefore, appealed to the members not to mention the names of members of the other House in a manner which might cause acrimony or which might in any manner cast reflections on them.<sup>118</sup>

On another occasion, a member made certain allegations on the floor of the House alleging offer of bribe to members in connection with voting against a Bill in the Lok Sabha.<sup>119</sup> The matter was raised in the Lok Sabha.<sup>120</sup> The Speaker addressed a letter to the Chairman in that regard. The Chairman, *inter alia*, observed in his reply to the Speaker's letter:

I have always held the view that members of one House should not make allegations or cast reflections on the floor of the House, or outside, on the members of the other House. In the Rajya Sabha the Chair has invariably deprecated such conduct on the part of any member.<sup>121</sup>

A member may not allude to debates in the other House.<sup>122</sup> In particular, critical reference to debates in the Lok Sabha by the members of the Rajya Sabha are to be avoided.

When a member, speaking on a motion on the international situation, made some critical reference to the debates on the subject which took place in Lok Sabha. The Prime Minister, Shri Jawaharlal Nehru suggested that it should not be made a practice in the Council to refer to the debates in Lok Sabha and... it was a bad practice, Lok Sabha discussing the Council and the Council discussing Lok Sabha leading to trouble between the two Houses. The Chairman observed:

“I would ask you not to refer to that House... The reference that you have made to the other House will be expunged from the proceedings.”<sup>123</sup>

However, relaxation is permitted for reference to Government statements in the other House.<sup>124</sup> A member can also quote from the speeches made by the Ministers in the Lok Sabha.

“When the Mines and Minerals Bill, 1957 was under discussion, a member quoted from a speech made in Lok Sabha by Shri K.D. Malaviya, the Minister of Mines and Oil, another member asked to know whether the member could read from the proceedings of the other House. The Deputy Chairman ruled:

A statement made by the Hon’ble Minister, he can quote.”<sup>125</sup>

Similarly, an answer to a question in the Rajya Sabha cannot refer to the answer to a question or proceedings in the other House during a current session.<sup>126</sup>

These rules of debate are thus intended to preserve the sanctity and dignity of proceedings of the Houses by mutual restraint and regard. These rules also recognise the independence of each House.

When the Secretary-General reported to the House a message from the Lok Sabha extending the time for presentation of the report of the Joint Parliamentary Committee on Bofors, some opposition members who had given prior intimation, wanted to make submissions. The Deputy Chairman did not permit and giving a ruling, *inter alia*, observed that there was no practice of discussing such message or offering any comment on the contents of the message. Among the reasons for not doing so given in the ruling was that it was a message of the other House and nothing should be said which would reflect upon the decision of the other House conveyed through a message. For all practical purposes the Committee functioned under the direction and control of the Speaker and any comment on the working of the Committee would, therefore, amount to reflecting, even though indirectly, on the functioning of the Speaker himself.<sup>127</sup>

However, in an early instance, some comments were made by a member when a message of the Lok Sabha regarding rejection of the recommendation made by the Rajya Sabha on the Finance Bill, 1978, was reported but the member was careful to say that what he would say should not be considered as reflection on prestige or dignity of the Lok Sabha.<sup>128</sup>

Certain observations of the Prime Minister about opposition parties made in the Lok Sabha was the issue in the Rajya Sabha where opposition members wanted that Question Hour should be suspended to discuss the same. The Chairman, however, did not permit, ruling that there was a well-established convention of not discussing in the House what had been raised in the other House.<sup>129</sup>

When some members wanted to raise an issue of reported threat of arrest of the Speaker, Lok Sabha by a Minister who was a member of the Rajya Sabha, the Deputy Chairman did not permit as the matter concerned the other House.<sup>130</sup>

However, on 24 July 1989, the House spent nearly five hours almost discussing about the resignations of opposition members of the Lok Sabha.

In addition, there is a certain in-built mechanism, partly emanating from the Constitution and partly evolved through practices and conventions which generates and regulates the smooth relationship between the Rajya Sabha and the Lok Sabha. Reference has already been made to the constitutional mechanism for conflict resolution in the legislative field. Each House, its members and committees have been granted by the Constitution, the same powers, privileges and immunities. In the matter of fixing rotation of Ministers for answering questions in the House, care is taken that the same Minister is not required to appear on the same day, at the same time at both the places. By convention, membership of the Rajya Sabha and the Lok Sabha in several committees like the Committee on Public Accounts, Committee on Public Undertakings, Railway Convention Committee, Committee on the Welfare of Scheduled Castes and Scheduled Tribes, Committee on Welfare of Other Backward Classes, Committee on Offices of Profit, Salaries and Allowances and the twenty four Department-related Parliamentary Standing Committee is fixed in the ratio of 2:1.

### **Controversies between the Houses**

It will thus be seen that the various provisions of the Constitution, rules of procedures and conventions all point towards mutual respect and regard, a sense of cordiality and cooperation in matters concerning business of Parliament between the two Houses. However, during early years, there

had occurred a few instances of controversies which seemed to sour the relationship between the Houses or create feelings of resentment or tension between the two. They arose primarily in financial and privilege matters and also in regard to the constitution of financial committees. But they were resolved in a spirit of mutual accommodation and deference as may be seen in the following cases:

(a) *Income-Tax Amendment Bill*

The first controversy occurred when the Rajya Sabha took up for consideration the Indian Income-Tax (Amendment) Bill, 1953, which was certified by the Speaker as Money Bill, on 29 April 1953. A point was raised whether it was a Money Bill and it was contended that the House was competent to refer the Bill back to the Speaker and to enquire the circumstances under which the Bill had been certified as a Money Bill. The then Law Minister who was also the Leader of the House (Shri C.C. Biswas), responding to the points stated, *inter alia*, that according to the information available, the Bill was treated probably “by the Secretariat of the other House, as a Money Bill and placed before the Speaker as such... and the Speaker appended a certificate” as required under the Constitution. He, therefore, suggested that it might be found out whether the certificate was given as a matter of form or it was given on any question raised that it was not a Money Bill.<sup>131</sup> Next day, i.e., 30 April 1953, exception was taken in the Lok Sabha to these remarks of the Law Minister in the Rajya Sabha. The remarks were described in the Lok Sabha as “thoroughly unjustifiable and inconsistent with the dignity of the Speaker.” The Chair observed that the matter might be brought up for discussion the next day when the Law Minister would be present in the House (Lok Sabha).<sup>132</sup>

The issue of the Law Minister being asked to be present in the Lok Sabha was raised in the Rajya Sabha on 1 May 1953, and after some discussion, the Rajya Sabha adopted the following resolution moved by a member:

That this Council is of the opinion that the Leader of the Council be directed not to present himself in any capacity whatsoever in the House of the People when the matter sought to be raised by Pandit Thakur Das Bhargava with reference to the speech of the Leader of the Council, regarding the certificate of the Speaker endorsed on the Indian Income-Tax (Amendment) Bill, 1953, is under discussion in that House.<sup>133</sup>

At the same time, the Secretary, Rajya Sabha sent a message to the Secretary, Lok Sabha, forwarding a copy each of the statements made by

the Chairman and the Leader of the House and also conveyed the passage of resolution by the House. The Chairman in his statement, *inter alia*, observed:

It was nobody's intention, least of all, of the Leader of the Council to cast aspersions on the integrity and impartiality of the Speaker. It is our anxiety in this Council to do our best to uphold the dignity of the Speaker and the privileges of the other House as we expect the other House to protect our interests and privileges.

The Leader of the House stated, *inter alia*, that he never cast any slur upon the Speaker in what he said nor was it ever his intention to do so. He stated that he would go to the Lok Sabha at the invitation of the Deputy Speaker "as a matter of courtesy – not as a matter of constitutional obligation – that I should be there to show as an example of good behaviour."<sup>134</sup> The Chairman, therefore, suggested that further discussion on the matter was perhaps not called for.

In the Lok Sabha, while further proceedings on the matter sought to be raised by Pandit Thakur Das Bhargava were dropped, the propriety of the resolution passed by the Rajya Sabha was called in question in the context of the Law Minister's clear responsibility to the Lok Sabha under the Constitution.<sup>135</sup>

As this incident "somewhat disturbed the normal serenity of the work of Parliament", the Prime Minister (Shri Jawaharlal Nehru) made a statement in the Rajya Sabha, explaining the whole position. He, *inter alia*, observed:

Under our Constitution, Parliament consists of our two Houses each functioning in the allotted sphere laid down in that Constitution. We derive authority from that Constitution. Sometimes we refer back to the practice and conventions prevailing in the Houses of Parliament of the United Kingdom and even refer erroneously to an Upper House and a Lower House. I do not think that is correct. Nor is it helpful always to refer back to the procedure of the British Parliament which has grown up in the course of several hundred years and as a result of conflicts originally with the authority of the King and later between the Commons and the Lords. We have no such history behind us, though in making our Constitution we have profited by the experience of others. Our guide must, therefore, be our own Constitution which has clearly specified the functions of the Council of States and the House of the People. To call either of these Houses an Upper House or a Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India.

The successful working of our Constitution, as of any democratic structure, demands the closest co-operation between the two Houses. They are in fact parts of the same structure and any lack of that spirit of co-operation and accommodation would lead to difficulties and come in the way of the proper functioning of our Constitution. It is, therefore,...to be regretted that any sense of conflict should arise between the two Houses. For those who are interested in the success of the great experiment in nation-building that we have embarked upon, it is a paramount duty to bring about this close co-operation and respect for each other. There can be no constitutional differences between the two Houses because the final authority is the Constitution itself. That Constitution treats the two Houses equally, except in certain financial matters which are to be the sole purview of the House of the People. In regard to what these are, the Speaker is the final authority.<sup>136</sup>

The Law Minister also associating himself with the statement of the Prime Minister expressed regret and offered apology for the incident. In the Lok Sabha also he offered his apology.<sup>137</sup> Thus, the curtain was finally rung down on the episode.

(b) *Other Financial Bills*

On another occasion, some points were again raised in the Rajya Sabha in the context of Financial Bills under article 117(1). The Major Port Trusts Bill, 1963, was referred by the Lok Sabha to its Select Committee and not to a Joint Committee of both Houses. When the Bill came up before the Rajya Sabha for consideration, the matter regarding Rajya Sabha not being associated with the Committee was raised. The Minister of Transport pointed out that since there was a ruling of the Speaker that a Financial Bill under article 117(1) could not be referred to a Joint Committee, the Bill was referred only to Select Committee of the Lok Sabha. There was some discussion about the rights of the Rajya Sabha in financial matters. However, in view of the urgency of the Bill the matter was not pursued further; but to assert its right, the Rajya Sabha referred the Bill to its own Select Committee to report within three days.<sup>138</sup>

Again, a similar situation arose in the Rajya Sabha when the Banking Laws (Amendment) Bill, 1968, as passed by the Lok Sabha came up for consideration. The Bill was referred by the Lok Sabha to its Select Committee, and not to the Joint Committee of Houses. In the Rajya Sabha, members referring to the precedent of the Major Port Trusts Bill, contended that the Bill ought to have been referred to the Joint Committee. The Minister concerned stated that since the Bill attracted some of the matter specified in the article 110 of the Constitution it

was not referred to the Joint Committee.<sup>139</sup> He, however, conceded the right of the House to refer it to a Select Committee for which a member had given amendment. Accordingly, the Bill was referred to the Select Committee of the Rajya Sabha.<sup>140</sup>

(c) *Privilege matter (N.C. Chatterjee's case)*

On 11 May 1954, a member raised a question of privilege in the Rajya Sabha alleging that Shri N.C. Chatterjee, member of the Lok Sabha, remarked in a public speech at Bombay about the Rajya Sabha that “the Upper House, which is supposed to be a body of elders, seems to be behaving irresponsibly like a pack of urchins”, in the context of the Special Marriage Bill which was under consideration of the Rajya Sabha, thereby casting reflection on the proceedings of the Rajya Sabha.<sup>141</sup> A question of privilege arising out of a notice issued to the member by the Secretary of Rajya Sabha was raised by Shri Chatterjee in the Lok Sabha.<sup>142</sup> The question as to what procedure should be followed when a member of one House commits a breach of privilege of the other was referred to a Joint Sitting of the Committees of Privileges of the two Houses.<sup>143</sup> The Committees evolved an acceptable procedure in such cases.<sup>144</sup>

(d) *Representation on Public Accounts Committee*

Another instance where relationship between the two Houses became sour was when the Rajya Sabha wanted the Committee on Public Accounts to be a Joint Committee of both Houses and also wanted representation on the Committee on Estimates of the Lok Sabha.

The Rules Committee of the Rajya Sabha in its report submitted to the Chairman on 24 December 1952, stated that the members of the Rajya Sabha should have representation on the Public Accounts Committee and it should be a Joint Committee of both Houses of Parliament, “to avoid unnecessary duplication of work”. The Committee also formulated a set of rules for the purpose and it was provided therein, among other things, that the proposed representation of the Lok Sabha and the Rajya Sabha on the Committee should be in the proportion of 2:1. The Rules Committee also requested the Chairman to take up with the appropriate authority the question of representation of members of the Rajya Sabha on the Estimates Committee. The Secretary of the Rajya Sabha accordingly took up the matter with his counterpart in the Lok Sabha, under the direction of the Chairman. The Speaker referred the matter to the Lok Sabha Committee on Rules for consideration, and the Chairman of the Public Accounts Committee for his reaction.<sup>145</sup>

The Committee on Public Accounts passed a unanimous resolution that the suggestion for setting up a Joint Committee on Public Accounts or a separate Public Accounts Committee of the Rajya Sabha, being against the principles underlying the Constitution, was not acceptable to it. The Rules Committee of the Lok Sabha also in its report gave detailed arguments for its view that there should not be any Joint Committee of the two Houses on any financial matter.<sup>146</sup>

There was a deadlock, but discussions went on behind the scene as there was eagerness in the members of both the Houses to find a solution, which was acceptable to both the Houses in the context of the constitutional provisions to preserve the supremacy of the Lok Sabha in financial matters and at the same time to provide for opportunities to the members of the Rajya Sabha to give their counsel in financial matters. Ultimately, it was decided that if the Lok Sabha passed an annual resolution of its own will to seek the association of the members of the Rajya Sabha with the Public Accounts Committee, both the objectives might be realised.<sup>147</sup>

On 12 May 1953, Prime Minister Shri Jawaharlal Nehru, moved the following Motion in the Lok Sabha:

That this House recommends to the Council of States that they do agree to nominate seven members from the Council to associate with the Public Accounts Committee of this House for the year 1953-54 and to communicate to this House the names of the members so nominated by the Council.<sup>148</sup>

There was opposition to this proposal in the Lok Sabha. Members felt that this was an intrusion on the exclusive rights and privileges of the Lok Sabha under the Constitution. Members in particular referred to the fact that the powers of the Rajya Sabha were limited with regard to Money Bills and financial matters. There was debate in the Lok Sabha for two days. On 13 May 1953, the Prime Minister gave a very comprehensive reply touching on the different aspects of the question. To the charge that the powers of the Lok Sabha were sought to be eroded by the motion moved by him, he said:

Great stress is laid on the powers of the House as if somebody was challenging them or making an attack on them. There is no doubt about what the powers of this House are in regard to money and financial matters. It is on that basis that we proceed. There the matter ends... The second point is whether this innovation...that my motion suggests — interferes with those powers in any way... If it interferes with those powers in any way...then it is a wrong motion. I accept that position if it is likely to interfere with those powers then we should be wary and see that we should not do so.<sup>149</sup>

As regards the association of members of the Rajya Sabha with the Committee as proposed in the Motion, he observed:

Then again, something has been said about associate members. Who are these associate members? The motion is a very simple one, inviting the Council of States to associate seven of its members with this Public Accounts Committee. It is not for us to say how the Council of States will choose them. It is patent that they will choose them by election; they cannot choose them in any other way. We know that it is for them to decide. Naturally, they will choose election by proportional representation and all that. If they come to the Committee, as the major function of the Committee is scrutinising, there is no question of two grades of members. They have the same grade and status.

It is true, it is my desire and I think it should be the desire of the House to cultivate to the fullest extent possible co-operation and friendly relations with the other House, because in the nature of things and in the nature of the Constitution that we have, if we have not got co-operative relations, each can hamper and delay public work. There is no doubt about it. Each has the capacity for good certainly, but also for delay, and for just irritating and annoying by delaying tactics, the other House. The conception of the Constitution is that Parliament is an integrate whole. I regret, as my hon'ble friend on this side regretted, describing a member of the other House as an outsider. In a narrow sense you may use that but the conception behind it is not a happy one and we are all joined together in Parliament, shouldering the burden of Parliament, and looked up to by the people of India. I do submit that the motion that I have made does not in the slightest degree infringe on the powers or the authority of this House but is a desirable thing from the point of view of co-operative effort of the two Houses, from the point of a view of showing an example to the other countries and other Parliaments, as to how this complicated structure of our Constitution can be made to work smoothly and effectively and with goodwill.<sup>150</sup>

Finally, the Motion was adopted by the Lok Sabha on 24 December 1953.<sup>151</sup>

The Rajya Sabha considered a motion moved by the Minister of Parliamentary Affairs on 13 May 1954, for concurrence in the motion of the Lok Sabha and nomination of seven members on the Committee for the year 1954-55.<sup>152</sup> During the course of discussion, members raised the issue of their status in the Committee. The motion, however, was adopted with the following observations of the Chairman:

...I think members know the history of this motion and I need not repeat it. There is a well-known Biblical saying: "All things may be

lawful, but not all things are convenient.” We are there in pursuance of a motion which was submitted to us in December last in the very same words which are used today: “That the Council of States do agree to nominate seven members from the Council to associate with the Public Accounts Committee.” That was the motion which came to us last time. So it is not a matter of any concession or sufferance. It is a matter of right in accordance with the motion of Parliament accepted by this House. It has also been made quite clear by the Minister for Parliamentary Affairs that we work in that Committee on terms of absolute equality with other members. In the uncorrected report of the proceedings of the House of the People, the Speaker has said, “So far as the deliberations, voting and other things are concerned, they are of the same status.” So the statement made by Shri Satya Narayan Sinha is the same as that by the Speaker or the statement made by the Speaker has been repeated by Shri Satya Narayan Sinha. So we have a right to sit there now and our rights are absolutely the same as the rights of the other members. The point is that the rules which govern the deliberations of this Committee will be the rules of the other House. Therefore, it is that all this confusion has arisen. What I would deprecate very much is accentuation of small differences. I would advise the House to accept the motion and use their rights to the best advantage.<sup>153</sup>

(e) *Membership of Committee on Public Undertakings*

As regards the Committee on Public Undertakings, similar situation arose in the context of the representation of the Rajya Sabha on that Committee. On 24 November 1961, a motion was moved in the Lok Sabha setting up this Committee for the first time. The motion moved by the Minister of Industry spelt out the detailed functions of the Committee which was to consist of ten members of the Lok Sabha and five members of the Rajya Sabha. One of the paragraphs of the motion recommended to the Rajya Sabha “that the Rajya Sabha do join in the said Committee.” During the discussion in the Lok Sabha on the motion, objection was taken to this phrase, which members thought, was a departure from the procedure adopted in the case of the Public Accounts Committee where members were only “associate” members.<sup>154</sup> Subsequently, on 21 September 1963, two separate motions were moved in the Lok Sabha – one regarding the constitution of a Committee on Public Undertakings and another recommending to the Rajya Sabha to nominate five members to associate with the Committee. The motions were adopted in the Lok Sabha on 20 November 1963.<sup>155</sup> In the Rajya Sabha the matter regarding rights of the Rajya Sabha was raised on 27 August 1962. The House considered the motion concurring in the setting up of the Committee on 26 November and 2 December 1963, and adopted the same on the latter day.

*(f) Status of Rajya Sabha members on financial committees*

Notwithstanding the clear and categorical exposition about the status of members of the Rajya Sabha on the Committee on Public Accounts and the Committee on Public Undertakings, the controversy cropped up in both the Houses again on two occasions entirely in different contexts.

On 28 April 1975, when a copy of the 159<sup>th</sup> report of the Public Accounts Committee was being laid on the Table of the Rajya Sabha, a member (who was also a member of the Committee) raised an objection that the report was not properly adopted by the Committee.<sup>156</sup> The next day objection was taken in the Lok Sabha to the report of the Public Accounts Committee being questioned in the Rajya Sabha.<sup>157</sup> Again on 30 April 1975, the proceedings of the Lok Sabha of the previous day, when some unsavoury remarks were made about the Rajya Sabha, came up in the Rajya Sabha. The Minister of State in the Department of Parliamentary Affairs stated, *inter alia*, that this matter should not be looked upon as some dispute between the rights and privileges of the Lok Sabha and the Rajya Sabha and that it was well-established all these years that members of the Rajya Sabha enjoyed equal rights including the right to vote and status with the members of the Lok Sabha. The Deputy Chairman made the following observations at the end:

As far as we are concerned, there have been quotations here both from what Dr. Radhakrishnan had said when this matter of the membership of the Public Accounts Committee was first raised in this House and also what the then Speaker had said at that time. Even Mr. Satya Narayan Sinha who moved the motion at that time, made it very clear. I will quote his words:

I would like to say that so far as the power, function or status of member is concerned, there is absolutely no difference between the members of this House and that House.

It was made absolutely clear at that time that as far as the membership is concerned, they are members of a Committee and there cannot be two different kinds of membership of a Committee. Whether they come from this House or the other House, once they become members, they are members of the Committee and there is absolutely no difference between their rights and status. That is absolutely clear.

As far as the discussion that has gone on there yesterday is concerned, I would only say that instead of quoting what has been said there and what some individual members had said there, it would be more dignified for us and for the members of the other House also to see that we act as one Parliament. Both the Houses constitute the

Parliament. The President and the two Houses of Parliament constitute the Parliament. Therefore, I think that to have any such feelings about the other House or this House will be out of place. I think both the Houses should actually work in harmony and protect the rights of each other. I think, this unfortunate thing will end here and now.<sup>158</sup>

Again on 2 May 1975, when the Minister of State in the Department of Parliamentary Affairs was moving a motion for nomination of the Rajya Sabha members to the Committee on Public Accounts for 1975-76, a member observed, "I would not like to send anybody to any Committee of Parliament unless he has full right and full dignity to function on behalf of the House." The Deputy Chairman referred to his previous observations (*quoted above*) and stated, "I am setting the whole matter at rest... I am just making it clear that as far as the members of the Committee are concerned, whatever may be the process of their election, once they are members of the Committee, they are on equal footing with other members of the Committee."<sup>159</sup>

Once again on 14 July 1982, when a copy of the minutes of the sittings of the Committee on Public Undertakings relating to its forty-seventh report was being laid on the Table of the Rajya Sabha, some members contended that the minutes as laid on the Table of the House were distorted and not true to facts, did not faithfully reflect what transpired at the meeting of the Committee relating to H.S.D. deal and that the Government had obstructed the Committee by not making available files relating to the deal. A series of privilege matters arose out of the issue. The Chairman in his first ruling observed that a privilege question had to be only in respect of the Committee of the Rajya Sabha and since the Committee on Public Undertakings functioned under the direction and control of the Speaker of the Lok Sabha and was provided for in the rules of that House, the Rajya Sabha did not have jurisdiction to entertain a complaint of breach of privilege in respect of that Committee. Members made submissions on this interpretation.

On 26 July 1982, the Chairman gave a detailed reasoning for his earlier ruling. Subsequently, certain articles appeared in some newspapers commenting on the ruling, which gave rise to privilege notices against them. The Chairman by his ruling on 2 August 1982, clarified that:

What I considered as the basis of my decision was the fact whether the Committee on Public Undertakings can fit in rule 187 of our rules as a Committee of our House. After considering the matter with great care and attention I came to the conclusion that it did not. Perhaps, my meaning was not appreciated and it has led to all kinds of misunderstandings. I reached the conclusion without meaning any

reflection upon the members of my House. I have always been very zealous of the honour and rights of the hon'ble members of my House. On more than one occasion I have said so. This anomalous position that some of those who work in the Committee should be able to raise every issue of privilege while the members of this House cannot except in some cases mentioned by me, troubled me not a little. It was only out of solicitude for the rights of this House in such Committees where they sit with Lok Sabha members but are not full members themselves that I said what I felt was necessary. It seems that this question troubled this House earlier also. The very fact that Pandit Nehru and Mr. Kanungo had to assure of 'equal status and grade' shows that this did not arise as of right.

While the Chairman suggested that rules could be framed to deal with such situations and remove whatever anomaly existed in regard to membership of the Rajya Sabha on the Committee, the Leader of the House stated that a mutually acceptable satisfactory solution could be found in this regard. The matter was thus agreeably settled.

In the context of this issue, on 28 July 1982, the Speaker quoting observations of Shri Jawaharlal Nehru stated in the Lok Sabha:

The members from Rajya Sabha have been associated with the Committee on Public Accounts and Committee on Public Undertakings since 1954 and 1964, respectively. As is well known, the hon'ble members from Rajya Sabha have been a source of great strength to the Financial Committees and have contributed greatly to the quality of their deliberations. The hon'ble members from Rajya Sabha have always enjoyed great respect and esteem and have been appointed as Conveners of the Sub-Committees/Study Groups of these Financial Committees which are charged with the onerous responsibility of detailed examination of important subjects. It has been our ceaseless endeavour that the sagacious counsel of Pandit Jawaharlal Nehru, the chief architect and consolidator of the parliamentary institutions in India, when he spoke on 13 May 1953, in support of the motion for association of members of Rajya Sabha with the Public Accounts Committee, should be lived up to in letter and spirit.<sup>160</sup>

The above incidents of controversies touched upon constitutional aspects of the functioning of Parliament. However, some other controversies also occurred which may be mentioned as under:

(i) *Whether "Parliament" includes Council of States*

On 24 November 1952, a member brought to the notice of the House that just at the entrance of the Parliament House, he saw a room designated

“Parliamentary Notice Office” which, in fact, displayed notices belonging to the House of the People and not the Council of States. He considered it “a serious infringement of the liberty and the freedom of our Council.” He, therefore, requested the Chair to take up the matter with the Government and see that the Parliament of India “consists really of the Council of States and the House of the People.” The Deputy Chairman informed that there had been some confusion in this regard and the matter had already been brought to the notice of the Speaker and “by mutual understanding, we will come to some understanding.”<sup>161</sup> Another member again raised the issue after three days. Thereupon, the Prime Minister Shri Jawaharlal Nehru, who was present in the House made the following observations:

“There is no doubt at all, Sir, that this House is very much a part of Parliament. If any kind of notice board—of which I am totally unaware—creates some confusion and some re-arrangements are necessary, I am quite sure, Sir, that you can very well safeguard the interests of this House.”<sup>162</sup>

#### *(ii) Discussion on the General Budget first in Rajya Sabha*

On 2 March 1963, a point was raised in the Lok Sabha taking exception to the Rajya Sabha discussing the Budget before it was discussed in the Lok Sabha. It was even suggested that after the President’s Address, the Rajya Sabha should adjourn and meanwhile after the Lok Sabha had discussed these matters, the Rajya Sabha should discuss them after recess.<sup>163</sup> After the issue was raised in the Rajya Sabha, the Minister of Parliamentary Affairs explained the position. Then the Chairman, *inter alia*, observed:

...As you have all made out, the constitutional position is quite clear. There is no superiority or inferiority in anything. We are two different Houses; we have prescribed functions to perform. There is no question of any House being superior to the other House. That point is incontrovertible. Then, I cannot understand why that question was raised there. It might have arisen on account of a misunderstanding. On account of the special privilege of the Lok Sabha in the case of Money Bills, they have probably the impression that the matter should not be discussed here first, which is wrong. That must have been the reason and no insult, in my opinion, was involved.<sup>164</sup>

Again a similar matter was raised in the Lok Sabha on 12 March 1965.<sup>165</sup> On 15 March 1965, a member raised the issue in the Rajya Sabha and referred to the following observations of the Speaker made on 12 March:

We should not in any manner show or appear that we grudge their exercising their own rights. But there are certain rights which are

vested in this House. That also must be taken into consideration. If the Constitution has vested certain privileges in this House alone, then it is our duty that we should not curtail them. The hon'ble Minister quoted certain observations to show that the Government has power to vary taxes and other things. That they are allowed under the law. They can always do it. But when the discussion takes place in that House, it may become necessary, sometimes—I do not say this time or next time—but on certain occasions and the Minister might feel persuaded to make any announcement so far as that taxation is concerned. That position would rather be a queer one because it is only this House which can urge for those things and the Minister can make concessions in response to that.

The member contended that the above observations derogated the rights granted by the Constitution. The Leader of the House (Shri M.C. Chagla) in reply observed:

The Constitution has clearly demarcated the powers of the Lok Sabha and the Rajya Sabha with regard to financial matters. But all that I would appeal to this House is that we should try and avoid any friction or conflict with the other House and I have no doubt that the privileges and the rights of this House are safe in the hands of our Chairman. The constitutional position is quite clear. We have every right to discuss the Financial Statement as the Lok Sabha has under the Constitution and there is no doubt whatsoever. The two Houses constitute the Parliament.<sup>166</sup>

### *(iii) Scrutiny of Budget estimates of Rajya Sabha*

On 3 May 1966, a member brought up a matter on the basis of a press report that a proposal had been mooted to constitute a Joint Committee of both the Houses of Parliament to examine the Budget estimates of the Rajya Sabha. He stated that such a proposal might adversely affect the cordial and harmonious relations that exist between the two Houses. Members expressed their views in the matter. The Leader of the House (Shri M.C. Chagla) stated that the convention, which had so far been maintained was a very good convention namely, that it was left to the Presiding Officer of each House to settle the estimates and each House had the full confidence in him. The estimates were never discussed either in the Lok Sabha or the Rajya Sabha. If, however, any change of procedure was to be made, two principles should be kept in mind. The first principle was that, as far as possible, the two Houses should function in harmony, goodwill and understanding between each other. The second principle was that the dignity of this House should be fully maintained. He, therefore, offered to convey to the Speaker or to the other House the wish of the Rajya Sabha, which was: ‘either the present convention should continue or if that convention

was to be departed from, we must have our own committee to look into our own estimates and scrutinise them. If there was going to be a Joint Committee, it should scrutinise estimates of the Rajya Sabha and also of the Lok Sabha.' The Chairman closed the discussion with the following observations:

Last year the Speaker of the Lok Sabha discussed with me the possibility of appointing a Committee to look into the accounts of the Rajya Sabha also as he has appointed a Committee to look into the accounts of the Lok Sabha. I thought it proper to consult the leaders of the various parties in the House and we had informal discussion. Then I took up the matter with the Speaker and I gave him two alternatives because that was what I was commissioned to do. I said that we would be very happy if we had two Committees, the Lok Sabha has its Committee and we have our own Committee. Their Committee looks into the accounts of the Lok Sabha and our Committee looks into the accounts of the Rajya Sabha. Failing that, if for some reason that is not possible or not advisable, we would also agree to a Joint Committee, provided the Joint Committee looks into the accounts of both the Houses, the Joint Committee of both the Houses to look into the accounts of the Lok Sabha and the Rajya Sabha together. The Speaker has not found it possible to accept any of these proposals. We have been discussing it. I have had several discussions with him but we could not come to any conclusion. But this discussion has been very helpful to me. After all, negotiations will be going on and I will be able to be guided by this discussion.<sup>167</sup>

(iv) *Resolutions in Lok Sabha for abolition of Rajya Sabha*

There had been two occasions in the past when resolutions were moved in the Lok Sabha seeking to abolish the Rajya Sabha. One resolution was moved on 18 March 1954, and it was negatived.<sup>168</sup> Another resolution was moved on 30 March 1973. Of the seven members, besides the mover, who participated in the debate only one member supported the resolution and all others opposed it. Eventually, the resolution was negatived.<sup>169</sup> On 31 March 1973, some remarks attributed to the mover of the resolution in the Lok Sabha, as per a press report, were strongly resented by several members in the Rajya Sabha. It was contended that the impugned remarks lowered the dignity and the prestige of the Rajya Sabha and as such, involved the question of breach of privilege of the House. The Chairman, while pointing out the tradition that both Houses of Parliament and their members should treat each other with utmost respect and consideration, and best relations should prevail between the Houses and the respective members thereof, informed that he would communicate the views expressed by the members to the Speaker, Lok Sabha. Accordingly, the Chairman

wrote to the Speaker enclosing the relevant extracts of the proceedings of the House for such action as he might think appropriate.<sup>170</sup> On 30 April 1973, the Chairman made an announcement giving the background of the case and read out to the House the reply of the Speaker dated 5 April 1973, stating, *inter alia*, that the concerned member did not say in his speech what was attributed to him in the caption of the newspaper report. The Speaker also observed:

I fully share your views about the cordial relations between the two Houses of Parliament and also their members... I also appreciate the concern as shown in the speeches of the hon'ble members of your House. Please assure them on behalf of the Lok Sabha and also myself that we hold them in utmost respect and high regard.

The Chairman also informed that he had received another communication from the Speaker on 22 April 1973, with which he forwarded a copy of the announcement he had made in the Lok Sabha on 19 April 1973. At the end of the announcement, the Speaker had observed:

May I take this opportunity to appeal to the hon'ble members to use necessary restraint and not say anything in this House which may bring disharmony between this House and Rajya Sabha.

Thereafter, the Chairman treated the matter as closed.<sup>171</sup>

(v) *Member of Rajya Sabha appointed as Finance Minister*

In the Lok Sabha, on 19 February 1982, when the second question addressed to the Minister of Finance was called, a member raised a point of order (which was permitted by the Speaker as a special case since the point of order pertained to the question) that the Finance Minister (Shri Pranab Mukherjee), who was a member of the Rajya Sabha had no *locus standi* to preside over the Finance Ministry since the over-riding authority in financial matter lay with the Lok Sabha. The Speaker after listening to various arguments and referring to articles 75, 77 and 80 of the Constitution, *inter alia*, ruled out the point of order and concluded his ruling by saying, “the fact that we have not had a Minister of Finance from the other House does not preclude a member of the Rajya Sabha from being appointed a Minister of Finance.”<sup>172</sup>

On 23 February 1982, the matter was raised in the Rajya Sabha by a member who contended that during the discussion in the Lok Sabha “indirectly a slur or aspersion” was cast on the Rajya Sabha. The Chairman thereafter, made the following observations:

...there is no bar in the Constitution against the nomination of a member of this House as Finance Minister. Indeed the Constitution seems to suggest without making any exceptions that Ministers may be from either House. The only embargo is that they cannot vote in the House to which they do not belong. This is, of course, the first time a Finance Minister from our House has been chosen. Speaking for myself, I feel glad that the Leader of the House has that honour. We have reason to be happy than otherwise. Whether an inveterate practice had grown in the past is not easy to say because the practice that the Prime Minister is a member of the Lok Sabha had been broken once, the analogy of the British Parliament cannot be invoked because here we have a written Constitution and...a provision which points in a different way. I do not think this is a matter for this House to concern itself with. And the other House has already accepted him. If they had not, perhaps we may have had something to say.<sup>173</sup>

#### NOTES AND REFERENCES

1. Art. 53(1).
2. Art. 79.
3. 27 Rpt., COP, pp. 22-23.
4. Arts. 54 and 55(3).
5. Art. 54, Explanation inserted by the Constitution (Seventieth Amendment) Act, 1992, s. 2.
6. Art. 55(2).
7. Election Commission's Order No. 480/2/97(1), 14.7.1997.
8. Presidential and Vice-Presidential Elections Act, 1952, s. 4(1).
9. AIR 1974 SC 1682.
10. Presidential and Vice-Presidential Elections Act, 1952, s. 4(3) and (4).
11. *Ibid.*, s. 5B.
12. *Ibid.*, s. 5C.
13. *Baburao Patel v. Dr. Zakir Husain*, AIR 1968 SC 904.
14. Art. 58.
15. Art. 59(1).
16. Art. 56.
17. Art. 57.
18. Gaz. Ext. (II-3), 20.7.1969.
19. L.S. Deb., 1.8.1969, c. 258-59.
20. Art. 56(1)(b).
21. Art. 61(1).
22. Arts. 61(2), 61(3), 361, 1<sup>st</sup> Proviso and 61(4).
23. Art. 65(1) *read with* 62(2).
24. Art. 65(2).
25. Art. 70.
26. Gaz. Ext. (II-3), 20.7.1969.
27. Art. 85.
28. Art. 87.
29. Art. 86.
30. Art. 91(1).
31. Art. 95(1).
32. Art. 99.
33. Art. 80.

- 
34. Art. 331.
  35. Art. 103.
  36. Art. 108(3).
  37. Art. 118(3).
  38. Art. 98.
  39. Art. 117(1).
  40. Art. 3, *Proviso*.
  41. Art. 274(1).
  42. Art. 117(3).
  43. Art. 111.
  44. Art. 112.
  45. Art. 115.
  46. Art. 151(1).
  47. Art. 281.
  48. Art. 323(1).
  49. Art. 338(2).
  50. Art. 340(3).
  51. Art. 350B(2).
  52. Art. 123.
  53. Art. 352.
  54. Art. 356.
  55. Art. 360.
  56. R. 238(vi) and R.S. Deb., 7.6.1971, c. 23.
  57. R.S. Deb., 12.5.1970, c. 169.
  58. *Ibid.*, 20.2.1961, c. 499-501.
  59. *Ibid.*, 13.3.1987, c. 202-05.
  60. *Ibid.*, 17.3.1987, c. 220-22.
  61. *Ibid.*, 20.3.1987, c. 240-66.
  62. *Ibid.*, 13.9.1991, c. 1.
  63. *Ibid.*, 14.9.1991, c. 17-23.
  64. *Ibid.*, 9.5.1984, c. 147-50.
  65. 26 Rpt., COP.
  66. 27 Rpt., COP.
  67. R.S. Deb., 19.2.1963, c. 81-91; and 20.2.1963, c. 232-33.
  68. Jawaharlal Nehru, *Letters to the Chief Ministers*, Vol. 5 (1958-1964), p. 577.
  69. R.S. Deb., 7.4.1971, c. 109-209 [For details see Chapter 7].
  70. Art. 75(3).
  71. Art. 113(2).
  72. Art. 109(1) and 117(1).
  73. References 43-54, *supra*.
  74. Arts. 54, 60, 61 and 67(b).
  75. The Houses of Parliament (Joint Sittings and Communications) Rules, published under DPA Not. No. 5(1)-PA-52, 16.5.1952, in Gaz. Ext. [I(1)], 20.5.1952.
  76. *Ibid.*, Rs. 9-12.
  77. R. 111.
  78. R. 115.
  79. Rs. 127 and 128.
  80. Rs. 131 and 132.
  81. R. 186(6).
  82. R. 118.
  83. Rs. 69(iii) and 70(2).
  84. R. 90(1), 2<sup>nd</sup> *Proviso*.
  85. Art. 108(1).
  86. Art. 108(3).
  87. Art. 108(5).
  88. The Houses of Parliament (Joint Sitting and Communications) Rules, R. 3.

89. Art. 118(4).
90. The Houses of Parliament (Joint Sitting and Communications) Rules, R. 6.
91. Art. 108(4).
92. Art. 100(1).
93. R.S. Deb., 16.12.1959, c. 2768-2801.
94. L.S. Deb., 11.2.1960, c. 588-608; and 23.2.1960 c. 2407-2453.
95. R.S. Deb., 25.2.1960, c. 1949-50.
96. *Ibid.*, 10.3.1960, c. 3456-80.
97. Bn. (I), 30.11.1960.
98. L.S. Bn. (I), 13.12.1960.
99. R. 116.
100. Bn. (I), 19.4.1961.
101. Joint Sitting of Houses of Parliament Debates, 9.5.1961, c. 282-314.
102. Bn. (I), 10.5.1978.
103. Joint Sitting of Houses of Parliament Debates, 16.5.1978, c. 150.
104. Bn. (II), 21.3.2002.
105. *Ibid.*, 22.3.2002.
106. R. 238(iii).
107. L.S. Deb., 2.8.1977, c. 264-368.
108. R.S. Deb., 3.8.1977, c. 185.
109. *Ibid.*, 4.5.1953, c. 4749-55.
110. *Ibid.*, 21.7.1987, c. 259.
111. R. 238A.
112. R.S. Deb., 19.6.1967, c. 4656-59.
113. *Ibid.*, 30.3.1970, c. 192.
114. *Ibid.*, 31.3.1970, c. 147.
115. *Ibid.*, 1.4.1970, c. 53, 61.
116. L.S. Deb., 1.4.1970, c. 234-37.
117. PD, 1950-1985, p. 571.
118. R.S. Deb., 4.4.1970, c. 10-11.
119. *Ibid.*, 2.9.1970, c. 152-55.
120. L.S. Deb., 3.9.1970, c. 6-9.
121. PD, 1950-1985, p. 97.
122. May, p. 375; and R. 354, L.S.R.
123. R.S. Deb., 23.6.1962, c. 1738-42.
124. *Ibid.*, 15.9.1954, c. 2311.
125. *Ibid.*, 24.12.1957, c. 4011-12.
126. R. 57.
127. R.S. Deb., 29.2.1988, c. 299.
128. *Ibid.*, 3.8.1977, c. 185.
129. *Ibid.*, 28.2.1989, c. 19.
130. *Ibid.*, 2.1.1991, c. 740-50.
131. C.S. Deb., 29.4.1953, c. 4425-26.
132. H.P. Deb., 30.4.1953, c. 5509-10.
133. C.S. Deb., 1.5.1953, c. 4623-24.
134. H.P. Deb., 1.5.1953, c. 5555.
135. *Ibid.*, c. 5543-5556.
136. C.S. Deb., 6.5.1953, c. 5038-42.
137. H.P. Deb., 6.5.1953., c. 5884.
138. R.S. Deb., 16.9.1963, c. 4260-4340.
139. Rs. 74 and 75, L.S.R., since amended, *vide* L.S. Bn. (II), 9.5.1989; R.S. Deb., 9.8.1968, c. 2696-2701; and 20.8.1968, c. 3701-08.
140. R.S. Deb., 26.8.1968, c. 4530.
141. *Ibid.*, 11.5.1954, c. 5999-6000.
142. H.P. Deb., 12.5.1954, c. 7161-7169; and 13.5.1954, c. 7275-83.
143. C.S. Deb., 14.5.1954, c. 6424-33; and 15-5-1954, c. 6539-43.

- 
144. Report of the Joint Sitting of the Committees of Privileges of the House of the People and the Council of States (1954). For details, See Chapter 8, *infra*.
  145. F. No. CS-3/53-L; *see also* C.S. Deb., 9.4.1953, c. 2501-03.
  146. F. No. CS-3/53-L.
  147. S.L. Shakdher, 'Relationship between the two Houses' in the *Second Chamber—Its Role in Modern Legislatures—Twenty-five Years of Rajya Sabha*, Rajya Sabha Secretariat, 1977, p. 299.
  148. H.P. Deb., 12.5.1953, c. 6402.
  149. *Ibid.*, 13.5.1953, c. 6592.
  150. *Ibid.*, c. 6596-97.
  151. H.P. Bn. (I), 24.12.1953.
  152. C.S. Deb., 13.5.1954, c. 6321-28.
  153. *Ibid.*, c. 6327-28.
  154. L.S. Deb., 24.11.1961, c. 1010-66.
  155. L.S. Bn. (I), 20.11.1963.
  156. R.S. Deb., 28.4.1975, c. 122-35.
  157. L.S. Deb., 29.4.1975, c. 204-22.
  158. R.S. Deb., 30.4.1975, c. 213-29.
  159. *Ibid.*, 2.5.1975, c. 140-42.
  160. L.S. Deb., 28.7.1982, c. 332.
  161. C.S. Deb., 24.11.1952, c. 39-40.
  162. *Ibid.*, 27.11.1952, c. 422.
  163. L.S. Deb., 2.3.1963, c. 1739-41.
  164. R.S. Deb., 4.3.1963, c. 1614-24.
  165. L.S. Deb., 12.3.1965., c. 4023-25.
  166. R.S. Deb., 15.3.1965, c. 3443.
  167. *Ibid.*, 3.5.1966, c. 62-80.
  168. H.P. Deb., 18.3.1954, c. 2640 and 4010-11.
  169. L.S. Deb., 30.3.1973, c. 291-327.
  170. R.S. Deb., 31.3.1973, c. 11-27.
  171. *Ibid.*, 30.4.1973, c. 125-28.
  172. L.S. Deb., 19.2.1982, c. 9-27.
  173. R.S. Deb., 23.2.1982, c. 213-15.

## CHAPTER–6

### Sessions of Rajya Sabha

The Rajya Sabha is not subject to dissolution<sup>1</sup> unlike the Lok Sabha which, unless sooner dissolved, continues for five years from the date appointed for its first meeting and the expiration of the said period of five years operates as dissolution of that House.<sup>2</sup>

The Constitution provides that the President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.<sup>3</sup> The President may from time to time prorogue the Houses or either House.<sup>4</sup> A session of the Rajya Sabha commences on the date and time mentioned in the Summoning Order of the President and ends with the day on which he prorogues the House.

A session is the period of time between the meeting of a Parliament and its prorogation. During the course of a session, either House may adjourn to such date as it pleases. The period between the prorogation of Parliament and its reassembly in a new session is termed as a ‘recess’<sup>5</sup> while the period between the adjournment of either House and the resumption of its sitting is generally called an ‘adjournment’.<sup>6</sup>

Until 1994, normally the Rajya Sabha used to meet in four sessions in a year, namely Budget session in the months of February-March and April-May; Monsoon session in the months of July-August and Winter session in the months of November-December. However, in the years 1961, 1962, 1964, 1976, 1977, 1980, 1985 and 1991, there were five sessions each<sup>7</sup> and in the years 1975 and 1984, there were only three sessions each.

In early years during the Budget session, the Rajya Sabha used to observe a recess of 2-3 weeks between March and April and the session used to be split into two parts instead of two sessions. For instance, the 1<sup>st</sup> Session of 1952, the 3<sup>rd</sup> Session of 1953 and the 6<sup>th</sup> session of 1954, each consisted of two parts.

Since the 170<sup>th</sup> Session (Budget session) of 1994, the Budget session is being treated as a continuous one instead of splitting it into two sessions as was the practice before. Consequent upon the setting up of the

Department-related Parliamentary Standing Committees in 1993, the Budget Session is divided into two parts. The relevant rule of the committees provides that after the general discussion on the Budget in the Houses is over, the Houses are to be adjourned for a fixed period and the committees have to consider the Demands for Grants of the related Ministries during the aforesaid period.<sup>8</sup> The 170<sup>th</sup> Session was also unique inasmuch as it was held in three spells, viz., (i) 21 February 1994 to 18 March 1994, (ii) 18 April 1994 to 13 May 1994 and (iii) 13 June 1994 to 15 June 1994.

Since the Rajya Sabha is a continuous body not subject to dissolution, the sessions, as also the sittings are numbered consecutively and continuously since its inception.

### **Summoning by the President**

The fixation of dates of summoning and prorogation of the two Houses of Parliament is one of the functions assigned to the Ministry of Parliamentary Affairs under the Government of India (Allocation of Business) Rules made by the President.<sup>9</sup> After assessing the time likely to be required for transaction of Government business and for discussion on topics of public interest as may be demanded from time to time by Members of Parliament, the Ministry of Parliamentary Affairs places a note before the Cabinet Committee on Parliamentary Affairs for making a recommendation as to the date of the commencement of a session of Parliament and its likely duration. The recommendation, if agreed to by the Prime Minister, is submitted by the Ministry of Parliamentary Affairs to the President for approval of the date(s) of the commencement of a session.<sup>10</sup> Thereafter, a communication is received by the Rajya Sabha Secretariat from the Ministry of Parliamentary Affairs to the effect that the Government has decided that the Rajya Sabha may be summoned for its session on a particular date and subject to exigencies of Government business, the session may conclude on a particular date and the date of commencement of the session of the Rajya Sabha has been conveyed by the Minister of Parliamentary Affairs to the President who has approved the same. On the basis of this communication, a note signed by the Secretary-General is sent to the Secretary to the President along with a Summoning Order in the following form for the approval and signature of the President:

In exercise of the powers conferred upon me by clause (1) of article 85 of the Constitution, I hereby summon the Rajya Sabha to meet at New Delhi on...(day), the ... (date), at 11.00 A.M.

...20...

President.<sup>11</sup>

The Summoning Order of the President is then published in the Gazette of India, Extraordinary, by a Notification of the Rajya Sabha Secretariat under the signature of the Secretary-General. The information is also published through the press and media. The Ministries of the Government of India, etc. are informed of the President's Order summoning the House by a circular.

In 1955, the Department of Parliamentary Affairs suggested that the then existing procedure of publication of the President's Order summoning or proroguing a House of Parliament under article 85 should be varied as follows:

- (1) all Orders under article 85 should be made by the President through the Department of Parliamentary Affairs carrying out the decision of the Prime Minister or the Cabinet regarding summoning or prorogation of Parliament;
- (2) when the President had signed and returned such Orders to the Department of Parliamentary Affairs, that Department should immediately communicate them to the Secretaries of the two Houses for further action, so far as Members of Parliament were concerned; publish them in the Gazette of India and send copies to the Ministries, etc. for information.

It was contended that in so far as the Department of Parliamentary Affairs had been established and designed to be the liaison between the Parliament and the President, i.e., Government, any action taken by the President on the advice of the Prime Minister or the Cabinet should be handled by that Department. The Secretaries of Parliament were also not directly responsible to the President.

This suggestion was, however, not agreed to for the following reasons:

- (1) the Orders about the summoning and prorogation of Parliament under article 85 are not in the name of the President and signed by the Secretary of the House concerned, but are made by the President himself and thereafter, notified by the Secretary of the House concerned. The question of authentication of these Orders under article 77(2) does not, therefore, arise at all;
- (2) the executive action with regard to obtaining the decision of the Prime Minister or the Cabinet about summoning or prorogation of Parliament is taken by the Department of Parliamentary Affairs and the Secretariat of the House merely passes on the substance of the Order recommended by the Prime Minister or the Cabinet to the President with a draft of the Order for the latter's approval and signature. Thereafter, the Order is published in the Gazette. This process can hardly

- be said to be tantamount to taking any executive action by the Secretariat;
- (3) the summoning or proroguing of a House is connected with the functioning of Parliament and since the President is a constituent part of Parliament there is nothing inappropriate in the Secretariat of the House communicating to the President the decision of the Prime Minister or the Cabinet;
  - (4) a Bill is sent to the President for assent by the Secretary of the House, although the President acts on the advice of his Ministers in giving such assent;
  - (5) publication of the Order of the President is a function which belongs appropriately to the Legislature and not to the Executive.<sup>12</sup>

The interval between the issue of the President's Order summoning the Rajya Sabha and the date of its commencement depends upon the decision of the Government to call the session. Generally, it has varied from 3-10 weeks. Where the interval is very short or when the session is called emergently or at short notice, then a telegraphic summons is issued followed by publication of date of summoning through a press communique and official media.<sup>13</sup> The following are the instances of emergent/short notice summoning of the House:

33<sup>rd</sup> Session (1961) for passing the Budget of Orissa which was under the President's Rule; 75<sup>th</sup> Session (1971) – session called after the general election; 99<sup>th</sup> Session (1977) for extension of the President's Rule in Tamil Nadu and Nagaland under the second proviso to article 356(4); 100<sup>th</sup> Session (1977) – session called after the general election and 158<sup>th</sup> Session (1991) for approval of the President's Rule in Haryana under the proviso to article 356(3).

If, after the issue of the Summoning Order, there is a change in the date of commencement of the session, a fresh Summoning Order is obtained from the President, as had happened in the following cases:

The 4<sup>th</sup> Session of the Rajya Sabha was originally summoned to meet on 17 August 1953. The Summoning Order was signed by the President on 28 May 1953. In view of the insufficient business for the Rajya Sabha, Government decided to postpone the session and call it on 24 August 1953. A fresh Summoning Order was signed by the President on 5 August 1953, "in supersession" of the previous Order. Members protested in the House about the postponement of the date of commencement of the session. The Leader of the House explained the position. The matter was closed with the observation made by the Chairman, *inter alia*, that more careful planning of parliamentary business could have avoided the postponement.<sup>14</sup>

The 41<sup>st</sup> Session was originally proposed to commence on 21 November 1962. The date was changed to 8 November 1962 and the earlier Summoning Order was cancelled.<sup>15</sup>

The 51<sup>st</sup> Session was originally proposed to commence on 15 February 1965. A draft Summoning Order was submitted to the President accordingly. However, before the President signed it, it was decided that the session should commence on 17 February 1965. The President's Secretariat, therefore, returned the original Summoning Order without the President's signature. A revised draft Summoning Order was then sent to the President for approval and signature.<sup>16</sup>

The 59<sup>th</sup> Session was originally to commence on 13 March 1967. The date was changed to 18 March 1967 and a fresh Summoning Order was issued "in supersession" of the previous Order.<sup>17</sup>

The 92<sup>nd</sup> Session was originally to commence on 28 April 1975. The date was changed to 25 April 1975 and a fresh Summoning Order was issued "in supersession" of the previous Order.<sup>18</sup>

The 101<sup>st</sup> Session was originally to commence on 23 May 1977. The date was changed to 11 June 1977 and a fresh Summoning Order was issued "in supersession" of the previous Order.<sup>19</sup>

However, on an occasion, the Rajya Sabha was summoned to meet on 14 June 1962 but on 10 June 1962, the Government declared 14 June as a public holiday on account of *Muharram* (which was originally on 13 June 1962). As at that stage it was not possible to change the date of commencement of the session, the House met as scheduled and adjourned for the day.<sup>20</sup>

It is not necessary that the two Houses should be summoned simultaneously or to meet on the same dates.<sup>21</sup> Until 1961, the two Houses commenced their sessions on different dates, with the exception of the first session of the year or the first session after the general election to the Lok Sabha. The Rajya Sabha used to be summoned after a few days or ordinarily a week or sometimes ten days or two weeks after the commencement of the Lok Sabha. This was perhaps to await that the Lok Sabha transacted some legislative business for subsequent consideration by the Rajya Sabha as otherwise, the Rajya Sabha could find itself without business if it met simultaneously with the Lok Sabha. For instance, the 2<sup>nd</sup> Session of the Rajya Sabha commenced on 24 November 1952, while the session of the Lok Sabha commenced on 5 November 1952; the 4<sup>th</sup> Session of the Rajya Sabha commenced on 24 August 1953, while the session of the Lok Sabha commenced on 3 August 1953; the 18<sup>th</sup> Session of the Rajya Sabha commenced on 12 August 1957, while the session of the Lok Sabha commenced on 15 July 1957. Since 1962, however, generally both Houses have been meeting simultaneously.

A two-day special session (99<sup>th</sup> Session) of the Rajya Sabha was held on 28 February 1977 and 1 March 1977, for extension of the President's Rule in Tamil Nadu and Nagaland under the second proviso to article 356(4). Another two-day special session (158<sup>th</sup> Session) was held on 3 June 1991 and 4 June 1991, for approval of the President's Rule in Haryana, under the proviso to article 356(3). On both these occasions the Rajya Sabha met when the Lok Sabha was under dissolution.

On the occasion of the 20<sup>th</sup> Anniversary of Universal Declaration of Human Rights, a suggestion made by the Minister of Parliamentary Affairs for holding a special session to commemorate the occasion was not agreed to by the Chairman. However, on the Minister's suggestion, the Chairman made a special reference about the occasion in the House.<sup>22</sup> On another occasion, the House did not agree to a suggestion made by a member that a secret session be held for discussing the India-China war situation.<sup>23</sup>

### **Summons to members**

The Secretary-General issues a summons to each member.<sup>24</sup> This is usually done as early as possible after the President's Summoning Order is received from the President's Secretariat. The summons is in the following form printed in Hindi and English, side by side and is addressed to each member by name:

SUMMONS

PARLIAMENT HOUSE

New Delhi, the.....(date), 20...

Shri/Shrimati

M.P.

I am directed to inform you that in exercise of the powers conferred by clause (1) of article 85 of the Constitution the President<sup>25</sup> has been pleased to summon the Rajya Sabha to meet at 11.00 a.m. on... (day), the ... (date), 20... at New Delhi.

You are requested to attend the session of the Rajya Sabha accordingly.

SECRETARY-GENERAL

Until 1969, the summons used to be issued in the following form:

The President, in exercise of the powers conferred by clause (1) of article 85 of the Constitution, having been pleased to direct that a session of the Council of States be held at New Delhi and to appoint...

(day), the... (date), 19.. at... a.m. (time) as the date for the commencement of the said session, you... (name of the member) are hereby summoned to the said Council of States at the place and on the date aforesaid.

By order of the President,  
Secretary.

At a sitting of the Rajya Sabha held on 15 December 1969, a member suggested that the above form of summons should be changed.<sup>26</sup> At a meeting of leaders of various parties and groups in the Rajya Sabha, held on 23 December 1969, under the Chairmanship of the Chairman, Rajya Sabha, a decision was taken to replace the above form of summons by the present one, which is in vogue since the 71<sup>st</sup> Session (1970).<sup>27</sup>

Summons is sent to members both at their Delhi and permanent addresses; in the latter case by speed post. Summons to a member under detention is sent to him through the jail authority concerned.

Summons to members under detention were sent care of jail authorities concerned for the 93<sup>rd</sup> and 94<sup>th</sup> Sessions in 1975; 95<sup>th</sup> to 98<sup>th</sup> Sessions in 1976; 99<sup>th</sup> Session in 1977; 108<sup>th</sup> Session in 1979; 119<sup>th</sup> Session in 1981; 123<sup>rd</sup> Session in 1982; 129<sup>th</sup> and 130<sup>th</sup> Sessions in 1984; 132<sup>nd</sup> and 133<sup>rd</sup> Sessions in 1985; 225<sup>th</sup> Session in 2012 and 230<sup>th</sup> Session in 2013. To a member who was on parole, summons was sent to the address as instructed by him.<sup>28</sup>

In case a member informs that he has not received the summons, a duplicate copy thereof is issued to him.

For instant supply of information to the members relating to the convening of a session, a practice of sending SMS message was started from the 213<sup>th</sup> Session of the Rajya Sabha in the year 2008. As soon as the Summoning Order duly signed by the President is received, the SMS message is transmitted to the members on their official mobile phones. The SMS contains basic information, viz., commencement and duration of session, first three ballot dates for questions and ballot dates for Private Members' Bills and resolutions, etc.

Along with the summons, every member is supplied a printed copy of the Provisional Calendar of sittings, showing the days on which the Rajya Sabha will sit and the type of business which will be transacted at each such sitting. However, when the Rajya Sabha was called for a brief two-day special session in 1977 (99<sup>th</sup> Session) and again in 1991 (158<sup>th</sup> Session) no Provisional Calendar of Sittings was issued. Members are also informed in detail, through a Parliamentary Bulletin, about the

President's Address, time of sittings of the House, procedure and dates of draw of lot for private members' business during the session, allotment of days for answering questions and procedure connected with the giving of notices and draw of lot for questions, etc. A chart showing the first and last dates of receipt of notices of questions is also supplied to each member, along with the summons.

If there is a change in the date of commencement of the session after the issue of summons, a fresh summons is issued cancelling the previous one and members are also informed accordingly.

If the House is adjourned *sine die* and before its prorogation, it can be reconvened. The reconvened session is regarded as the second part of the session and no fresh summons is issued to the members. Members are informed by a letter/SMS about the reconvening of the House.

The 151<sup>st</sup> Session which commenced on 18 July 1989, was adjourned *sine die* on 18 August 1989. It was not prorogued. On a proposal received from the Minister of Parliamentary Affairs, the Chairman reconvened the House on 11 October 1989. The two parts, preceding and following the period of adjournment of Rajya Sabha *sine die* on 18 August 1989, were treated as constituting one session divided into Part-I and Part-II. On the conclusion of Part-II of the session, the Rajya Sabha was adjourned *sine die* on 13 October 1989 and prorogued by the President on 20 October 1989.<sup>29</sup>

The 153<sup>rd</sup> Session commenced on 12 March 1990. It was adjourned *sine die* on 30 March 1990. It was not prorogued. On a proposal received from the Minister of Parliamentary Affairs, the Chairman reconvened the House on 9 April 1990. The two parts, preceding and following the adjournment *sine die* on 30 March 1990, were treated as constituting one session divided into Part-I and Part-II. On the conclusion of Part-II on 10 April 1990, the Rajya Sabha was adjourned *sine die* the same day and prorogued by the President on 12 April 1990.<sup>30</sup>

The 155<sup>th</sup> Session commenced on 7 August 1990, it was adjourned *sine die* on 7 September 1990. It was not prorogued. On a proposal received from the Minister of Parliamentary Affairs, the Chairman reconvened the House on 1 October 1990. The two parts, preceding and following the adjournment *sine die* on 7 September 1990, were treated as constituting one session divided into Part-I and Part-II. On the conclusion of Part-II on 5 October 1990, the Rajya Sabha was adjourned *sine die* the same day and prorogued by the President on 11 October 1990.<sup>31</sup>

The 200<sup>th</sup> Session commenced on 2 December 2003. It was adjourned *sine die* on 23 December 2003. It was not prorogued. On a proposal received from the Minister of Parliamentary Affairs, the Chairman

reconvened the House on 30 January 2004. The two parts, preceding and following the adjournment *sine die* on 23 December 2003, were treated as constituting one session divided into Part I and Part II. Consequently, when the House reassembled for Part-II of the 200th session on 30 January 2004, it was not treated as first session of the year and hence did not commence with the Address by the President. On the conclusion of Part-II of the session on 5 February 2004, the House was adjourned *sine die* the same day and prorogued by the President on 10 February 2004.<sup>32</sup>

The 207<sup>th</sup> Session which commenced on 16 February 2006, was as per original schedule, to adjourn on 17 March 2006 to meet again on 3 April 2006 and continue upto 28 April 2006 . However, due to controversy in the House over the issue of Offices of Profit, the House was adjourned *sine die* on 22 March 2006 (earlier, the first part of the session was also rescheduled). The House was reconvened on 10 May 2006 by the Chairman on a proposal received from the Minister of Parliamentary Affairs. The House was adjourned *sine die* on 23 May 2006.<sup>33</sup>

The 214<sup>th</sup> Session which commenced on 17 October 2008 was adjourned early on 24 October 2008 to meet again on 10 December 2008. The session as per the original schedule, was to continue upto 21 November 2008. However, due to upcoming State Assembly elections in some States and consensus among members in the House, the House was adjourned till 10 December, 2008. Subsequently, the Minister of Parliamentary Affairs, through a letter requested the Chairman to fix the sittings of the session (second part) upto 23 December 2008. Thus, the 214<sup>th</sup> Session comprised two parts, the first part from 17 to 24 October 2008 and the second part from 10 to 23 December 2008. The session was prorogued by the President on 24 December 2008.<sup>34</sup>

The second part of the 219<sup>th</sup> Session was scheduled to commence from 12 April 2010. However, the Minister of Parliamentary Affairs, through a letter requested the Chairman, that the House may resume its sittings from 15 April 2010 instead of 12 April 2010 in view of certain holidays falling on 12, 13 and 14 April 2010. Accordingly, the House reassembled for the second part of the 219<sup>th</sup> Session on 15 April 2010. The sittings of the House fixed for 12 and 13 April 2010 were treated as cancelled.<sup>35</sup>

The 230<sup>th</sup> Session of the Rajya Sabha which commenced on 5 December 2013 was scheduled to continue till the 20 December 2013. The House was however adjourned *sine die* before schedule on 18 December 2013. It was not prorogued. The Minister of Parliamentary Affairs through a letter, requested the Chairman to reconvene the 230<sup>th</sup> Session on 5 February 2014 and fix the sittings upto 21 February 2014. The 230<sup>th</sup> Session was adjourned *sine die* on 21 February 2014 and prorogued by the President on 27 February 2014.<sup>36</sup>

---

Summons to newly elected/nominated members is issued only after their election/nomination is notified in the Official Gazette as required under the Representation of the People Act, 1951.<sup>37</sup>

In case a person becomes a member in the midst of a session, no summons as such is issued but he is informed about the commencement and probable date of conclusion of the session.

The 170<sup>th</sup> Session of the Rajya Sabha which commenced on 21 February 1994, adjourned on 18 March 1994, to meet again on 18 April 1994. As a result of the biennial elections held between January and March 1994, 58 members were elected to the Rajya Sabha and their term of office commenced on 3 April 1994. These members were, therefore, informed about the re-assembly date of session by sending a letter, to each under the signature of the Secretary-General. Along with the letter, a copy of the Provisional Calendar of Sittings for the session was also sent.<sup>38</sup>

Similarly, 189<sup>th</sup> Session of the Rajya Sabha which commenced on 23 February 2000, adjourned on 16 March 2000, to meet again on 17 May 2000. As a result of biennial elections, 58 members were elected to the Rajya Sabha and the term of office for 52 members commenced on 3 April 2000 and for 6 members on 4 April 2000. These members were informed about the date of re-assembly of the session through a letter sent under the signature of the Secretary-General. As per the past practice, a copy of the Provisional Calendar of Sittings for the session was also sent.<sup>39</sup>

The 195<sup>th</sup> Session of the Rajya Sabha commenced on 25 February 2002, adjourned on 22 March 2002 and met again on 15 April 2002. As a result of biennial elections, 58 members were elected to the Rajya Sabha and the term of office for 22 members commenced on 3 April 2002, and for 36 members on 10 April 2002. These members were informed about the date of re-assembly of the session through a letter sent under the signature of the Secretary-General and a copy of the Provisional Calendar of sittings for the session was also sent.<sup>40</sup>

Summons is issued to a member who is elected to a State Legislature but has not resigned from the Rajya Sabha or the period of fourteen days from the date of his election to the State Legislature has not expired. For the same reason, summons is also issued to a member who becomes a Minister in a State till he continues to be a member of the Rajya Sabha.

Two members of the Rajya Sabha were elected to Orissa Legislative Assembly. Summons for the 75<sup>th</sup> Session (1971) were issued to them, in view of article 101(2) read with rule 2 of the Prohibition of Simultaneous Membership Rules, 1950.<sup>41</sup>

Where members are elected/nominated before the commencement of the session but after issue of summons, summons is issued to them for that session after receipt of information about their election/nomination and in such a case, the original date of the summons is retained but below it the new date of issue of the summons is indicated. In case of impending biennial elections, summons is not issued to members who are about to retire before the commencement of the session. The following cases illustrate the practice observed in this behalf.

In 1954, when one-third of the members retired, summons was not issued to the newly elected/nominated members as the 6<sup>th</sup> Session was not prorogued by the President but was adjourned to meet at a later date. Letters requesting them to attend the meetings of the House in their capacity as members, were, however, sent to them.<sup>42</sup>

Summons for the following sessions was issued only to non-retiring members and to the newly elected/nominated members (summons was issued after completion of biennial elections with existing date and the new date of issue thereunder): (i) 21<sup>st</sup> Session (1958); (ii) 29<sup>th</sup> Session (1960); (As the time between the elections on 3 April and commencement of the session on 6 April was short, summons was issued by express telegram);<sup>43</sup> (iii) 88<sup>th</sup> Session (1974); (iv) 105<sup>th</sup> Session (1978); (v) 107<sup>th</sup> Session (1978); (vi) 109<sup>th</sup> Session (1979); (vii) 134<sup>th</sup> Session (1985); (viii) 135<sup>th</sup> Session (1985); (ix) 138<sup>th</sup> Session (1986) and (x) 139<sup>th</sup> Session (1986).

Summons for the 82<sup>nd</sup> Session (1972) commencing on 13 November 1972, was issued on 16 September 1972. Later, it was noticed that the term of office of a member from Jammu and Kashmir was due to expire on 10 November 1972. He was requested to treat the summons issued to him as cancelled.<sup>44</sup>

Summons for the 106<sup>th</sup> Session (1978) was not issued to a member whose term was to end on a day before the commencement of the session. Summons was also not issued to the member elected in his place as the term of office of that member commenced on the day of commencement of the session. That member was informed telegraphically about the session.<sup>45</sup>

Elections to fill two casual vacancies from Bihar were to be held on 7 July 1979. Secretary, Bihar Legislative Assembly, was requested to intimate to the members elected about the commencement of the 110<sup>th</sup> Session on 9 July 1979.<sup>46</sup>

Summons was not issued to three members from Gujarat who were retiring on 13 August 1981, as the 119<sup>th</sup> Session was to commence on 17 August 1981. However, to those elected in their places on

14 August 1981, summons was issued upon the issue of notification of their election on that day.<sup>47</sup>

Summons was not issued to six members from Tamil Nadu who were retiring on 24 July 1983 and the 127<sup>th</sup> Session was to commence the next day. One member from Pondicherry was due to retire on 27 July 1983 and so the summons was issued to him.<sup>48</sup>

The Rajya Sabha was reconvened for a two day sitting on 9 and 10 April 1990, after its adjournment *sine die* on 30 March 1990, during the 153<sup>rd</sup> Session (second part). Thirty-four members had retired on 2 April and the other thirty-eight were due to retire on 9 April. As it was not a fresh session, three sets of letters/telegrams requesting members to attend the second part of the session were issued as follows:

- (i) to non-retiring members, and members elected on 2 April – to attend the sittings of 9 and 10 April;
- (ii) to members retiring on 9 April – to attend only that day's sitting;
- (iii) to members elected in place of retiring members as at (ii) – to attend only the sitting of the House on 10 April.<sup>49</sup>

The 162<sup>nd</sup> Session which was due to adjourn on 31 March 1992, was extended upto the 3 April 1992. Eighteen members who were elected at the biennial elections were informed telegraphically about the extension of the session.<sup>50</sup>

In case a member becomes subject to a disqualification after the issue of a summons to him to attend the session, he is requested to treat the summons as cancelled.

The President of India decided on 8 September 1982 that Shri R. Mohanrangam, a sitting member had become subject to disqualification under article 102(1)(a) of the Constitution. He was requested to treat the summons in respect of the 124<sup>th</sup> Session issued to him as cancelled.<sup>51</sup>

Summons is not issued to a member whose election to the Rajya Sabha has been declared void by the court. As regards the stay order granted by the court on the judgement of the court setting aside the election of a member, the question whether summons should be issued to such a member or not is decided on the basis of the terms of the stay order. The following cases illustrate the practice in this behalf:

The Supreme Court by its Order dated 21 May 1957, directed that Maulana Abdul Shakoor, a member "shall not function as a member of

the Council of States... except to the extent absolutely necessary to attend the session of the said Council of States in order to avoid forfeiture of the seat for continued absence." The effect of this was that during the pendency of the Court's Order the member might attend the House only for the purpose of avoidance of forfeiture of his membership due to continued absence. As the member's absence throughout that (18<sup>th</sup>) Session would not result in his exceeding sixty days of absence under article 101(4) of the Constitution, it was decided that a formal summons addressed to the member requiring him to attend the session would not be in accord with the Supreme Court's Order. On the other hand, the member could attend the session even without the summons. No summons was, therefore, issued to him for that session.<sup>52</sup>

The Election Tribunal at Patna declared the election of Shri R.P. Jain to the Rajya Sabha void. Summons dated 3 June 1965, for the 53<sup>rd</sup> Session was, therefore, not issued to him. Subsequently, the High Court of Patna stayed the operation of the Order of the Tribunal on 30 June 1965. Summons was thereafter issued to the member "to restore to him the rights of his membership which had been withdrawn from him on receipt of the Order of the Election Tribunal."<sup>53</sup>

Dr. M. Chenna Reddy was elected to the Andhra Pradesh Legislative Assembly in the general election held in March 1967. He resigned his seat in the Assembly before he became a member of the Rajya Sabha on 3 April 1968. The High Court of Andhra Pradesh set aside his election to the Assembly by a judgment delivered on 26 April 1968. The Supreme Court by its Order dated 4 June 1968, stayed the operation of the High Court judgement and ordered that—

- (a) Dr. M. Chenna Reddy be permitted to take the oath of membership of the Rajya Sabha;
- (b) he be entitled to attend the Rajya Sabha for the minimum number of days to save himself from being disqualified;
- (c) he should not take part in the proceedings of the House nor would he have right to vote or draw any salary or allowances.

In view of the above, summons dated 22 May 1968, for the 65<sup>th</sup> Session commencing on 22 July 1968, was not issued but only the Bulletin and Calendar of Sittings were issued to Dr. Reddy.<sup>54</sup>

The Madras High Court by its Order dated 14 October 1974, set aside the election of Shri John *alias* Valampuri John elected in the biennial election in March 1974. The Supreme Court granted an *ex parte* stay on 10 January 1975, on the terms that Shri John would be entitled to attend the Rajya Sabha sessions and sign the Attendance Register for the minimum number of days to keep his seat intact, but would

not participate in the proceedings or vote or draw any remuneration. Summons for the 94<sup>th</sup> (1975) and the 99<sup>th</sup> (1977) Sessions were, however, issued to him pending disposal of his appeal in the Supreme Court.<sup>55</sup>

The Allahabad High Court declared the election of Shri P.N. Sukul to the Rajya Sabha void on 10 July 1981. The Court, however, granted stay order for three weeks, i.e., upto 4 August 1981, subject to the following conditions:

- (i) he could attend meetings of the committees of which he was made a member or for which he was elected in his capacity as a member of the Rajya Sabha but he would not be entitled to vote nor would he take part in debates there;
- (ii) he would not be entitled to get any pay or allowances due as a member of the Rajya Sabha but he could stay in the house allotted to him.

Summons for the 119<sup>th</sup> Session commencing on 17 August 1981, was not issued to him initially since it was felt that Shri Sukul's membership of a committee of the Rajya Sabha only was saved by the stay order.

Meanwhile, Shri Sukul approached the Supreme Court for *ex parte* stay order which was granted on 30 July 1981. Summons was, therefore, issued on 3 August 1981. The stay order was confirmed by the Supreme Court on 12 October 1981.<sup>56</sup>

The Guwahati High Court by its Order dated 7 November 1990, set aside the election of Shri Amritlal Basumatary to the Rajya Sabha from Assam and declared Shri Hiteshwar Saikia elected in his place. Summons for the 156<sup>th</sup> Session commencing on 27 December 1990, was not issued to either of them. The Supreme Court, on appeal by Shri Basumatary, by the Order dated 6 December 1990, stayed the operation of the High Court's Order, permitted him to attend the Rajya Sabha and sign the Register but ordered that he would not be entitled to participate in the proceedings or exercise his right to vote or draw any remuneration. After the stay order, the Summons for the 156<sup>th</sup>, 157<sup>th</sup> and 158<sup>th</sup> Sessions were issued. Subsequently, the Supreme Court *vide* its Order dated 1 August 1991, dismissed Shri Basumatary's appeal. Since Shri Hiteshwar Saikia, during the pendency of Shri Basumatary's appeal in the Supreme Court, had become Chief Minister of Assam and a representation to the effect that he was not interested in being a member of the Rajya Sabha was made on his behalf before the Supreme Court, his seat was declared vacant by the Court with effect from that date.<sup>57</sup>

The Election Commission by its Order dated 8 July 1991, issued under section 10A of the Representation of the People Act, 1951, declared Shri W. Kulabidhu Singh disqualified to be a Member of Parliament/

State Legislature. Summons and other papers for the 160<sup>th</sup> Session were accordingly not issued to him. He filed a petition in the Delhi High Court which issued a show cause notice to the Election Commission but did not stay the operation of the order. Summons for the 161<sup>st</sup> Session was also not issued to him. Subsequently, the High Court of Delhi stayed the operation of the Election Commission's Order on 18 November 1991. Issue of summons to the member was, therefore, resumed.<sup>58</sup>

### **Extension of session**

After the commencement of the session, sittings of the House may be required to be extended beyond the schedule notified to members in the Provisional Calendar of Sittings. This is generally done for the transaction of Government business and the matter is discussed in the Business Advisory Committee and its recommendation is announced by the Chair to the House. Simultaneously, members are informed through a Bulletin. Ministries, etc. of the Government of India are also informed by a separate circular.

There have been a number of occasions when sessions have been extended by a day or couple of days and even more. Generally, the Chair announces such extension but sometimes the Leader of the House or the Minister of Parliamentary Affairs may also make such announcement.

The 224<sup>th</sup> Session of the Rajya Sabha was originally scheduled from 22 November 2011 to 21 December 2011. It was extended first by one day, i.e., 22 December 2011 and again by three days, i.e. 27, 28 and 29 December 2011. Extension of one day was due to cancellation of a sitting on 5 December 2011 due to *Muharram* on 6 December 2011. However, the extension of 3 days of the 224<sup>th</sup> Session was for the purpose of consideration of the Lokpal and Lokayuktas Bill, 2011.<sup>59</sup>

The 229<sup>th</sup> Session of the Rajya Sabha was extended twice. The session which commenced on 5 August 2013 was scheduled to conclude on 30 August 2013. It was first extended for 5 days till 6 September 2013 for consideration of the National Food Security Bill, 2013 and the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013. Again, it was extended by one day i.e., till 7 September 2013 for consideration of the Appropriation (No.4) Bill, 2013 and some other Bills.<sup>60</sup>

### **Adjournment *sine die***

During the course of a session, the Rajya Sabha may be adjourned from day to day or for more than a day. It may also be adjourned *sine die*. The adjournment of the House means the suspension of the sitting of the

House till the following or some later day or hour of time. Adjournment *sine die* means termination of the sitting of the House without specifying or fixing any definite date for its next sitting.

The power to adjourn the House from time to time or *sine die* vests in the Presiding Officer. He does so at a fixed hour or at such other hour as he may determine after taking the sense of the House. The Chairman may, if he thinks fit, call a sitting of the House before the date or hour to which it has been adjourned or at any time after the House has been adjourned *sine die* but before it is prorogued by the President.

On 3 December 1971, the Rajya Sabha was adjourned till Monday, 6 December 1971. Meanwhile war broke out with Pakistan. The Chairman directed that the Rajya Sabha should sit on Saturday, 4 December and the Rajya Sabha met accordingly. A Parliamentary Bulletin Part-II to that effect was issued to members on Friday, 3 December itself and the Part-I Parliamentary Bulletin of 4 December 1971, contained the following note before the record of the proceedings:

The Chairman having directed that Rajya Sabha which had been adjourned till Monday, 6 December 1971, would sit at 11.00 a.m. on Saturday, 4 December 1971, the Rajya Sabha met at 11.00 a.m.

### **Adjournment *sine die* before schedule**

The 36<sup>th</sup> Session was, as per the Provisional Calendar of Sittings, to conclude on 22 December 1961. On 4 December 1961, the Deputy Chairman announced that the Rajya Sabha would adjourn *sine die* on 15 December 1961, and sittings of the House fixed for 18, 19, 20, 21 and 22 December 1961, had accordingly been cancelled. The House was accordingly, adjourned *sine die* on 15 December 1961.

The Minister of Parliamentary Affairs announced the Government Business for the remaining part of the 39<sup>th</sup> Session on 16 June 1962, and the last item mentioned was for 26 June 1962. On 19 June 1962, the Chairman announced that the session, as indicated in the programme announced by the Minister of Parliamentary Affairs, would conclude on 26 June 1962, though the session was to conclude on 29 June 1962. The House was accordingly adjourned *sine die* on 26 June 1962.

On 16 July 1979, at the commencement of the sitting of the House, the Leader of the Opposition (Shri Kamlapati Tripathi) mentioned that the Prime Minister had resigned. There was a demand that the House should be adjourned. The Chairman adjourned the House *sine die* "in view of the Presidential communication in the matter."

On 20 August 1979, the Leader of the House (Shri K.C. Pant) informed the House that the Government had resigned and there was no business

before the House so it might be adjourned *sine die*. The Chairman read out the following letter of the Prime Minister:

Dear Mr. Chairman,

I have submitted my resignation and that of my Council of Ministers to the President. In consequence of this, I request that the business scheduled for today may not be taken up.

The Chairman asked whether he could adjourn the House. Upon some members answering in the affirmative, he adjourned the House *sine die*.

The second part of the 151<sup>st</sup> Session which was convened to meet on 11 October 1989, was originally to conclude on 16 October 1989. It was mainly to consider the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills, 1989, relating to Panchayati Raj and Municipalities. Government decided to take up the Bills on 13 October 1989, itself. The Bills failed to get the requisite majority in the House under article 368 of the Constitution. After pronouncing the result of the voting, the Chairman adjourned the House *sine die*.

The 157<sup>th</sup> Session was scheduled to conclude on 27 March 1991. On 6 March 1991, when the House reassembled after the lunch-recess, the Leader of the House (Shri Yashwant Sinha) announced that the Prime Minister was on his way to the Rashtrapati Bhawan to tender his and that of his Council of Ministers' resignation and requested the Chair to adjourn the sitting of the House for the day. Next day, after the Secretary-General laid on the Table a copy each of the letters from the Prime Minister to the President tendering the resignation and from the President to the Prime Minister accepting the resignation, received from the Secretary to the President, the House was adjourned till 11 March 1991. The House considered and disposed essential legislative and other business including the Constitution (Seventy-fifth Amendment) Bill, 1991 (regarding extension of the President's Rule in Punjab) in the next two days, i.e., on 12 March 1991, and 13 March 1991. The House was adjourned *sine die* on 13 March 1991, with valedictory remarks of the Deputy Chairman.

The 172<sup>nd</sup> Session which commenced on the 7 December 1994, was scheduled to conclude on 23 December 1994, as per the Provisional Calendar of Sittings. On the last day of the session, there was grave disorder on the issue arising out of the Gyan Prakash Committee Report. The Deputy Chairman repeatedly said that she would adjourn the House *sine die*, as per the procedure. Thereafter, the National Song (*Vande Mataram*) was played and she adjourned the House *sine die* at 12.17 p.m.

The 177<sup>th</sup> Session, first after the constitution of Eleventh Lok Sabha, commenced on 24 May 1996 and was scheduled to conclude on

31 May 1996. But due to the resignation of Prime Minister, Shri Atal Bihari Vajpayee and that of his Council of Ministers on 29 May 1996, the House adjourned *sine die* on 30 May 1996.

The second part of the 186<sup>th</sup> Session which was convened to meet on 12 April 1999, was originally to conclude on 14 May 1999. Owing to the loss of Vote of Confidence by the Government headed by Shri Atal Bihari Vajpayee in Lok Sabha on 17 April 1999, the session concluded before schedule on 23 April 1999.

The second part of the 192<sup>nd</sup> Session which was convened to meet on 16 April 2001, was originally to conclude on 11 May 2001. However, due to continuous interruptions in the House in the wake of revelations made in the Tehelka tapes, the House adjourned *sine die* on 27 April 2001.

The 194<sup>th</sup> Session which commenced on 19 November 2001, was scheduled to conclude on 21 December 2001 as per the Provisional Calendar of Sittings. After the terrorist attack on Parliament on 13 December 2001, the House discussed the situation arising out of the attack and adjourned *sine die* on 19 December 2001.

The 196<sup>th</sup> Session which commenced on 15 July 2002, was scheduled to conclude on 14 August 2002, as per the provisional calendar of sittings. However, due to continuous interruptions in the House for five consecutive days on the issue of irregularities in the allotment of petrol pumps, the House adjourned *sine die* on 12 August 2002.

The 222<sup>nd</sup> Session which commenced on 21 February 2011 was scheduled to conclude on 21 April 2011. However, due to upcoming State Assembly elections in five States, *i.e.* Assam, Kerala, Puducherry, Tamil Nadu and West Bengal, the House was adjourned *sine die* on 25 March 2011.

The second part of the 228<sup>th</sup> Session which commenced on 22 April 2013 was scheduled to conclude on 10 May 2013. However, due to continuous interruptions on the issue of corruption and allocation of coal blocks, the House was adjourned *sine die* on 8 May 2013.

### **Prorogation and its effects**

“Prorogation means the end of a session (not of a Parliament).”<sup>61</sup> “A prorogation terminates a session; an adjournment is an interruption in the course of a single session.”<sup>62</sup> A session is terminated only by prorogation and not by adjournment.<sup>63</sup> The period between the prorogation of the House and its reassembly in a new session is termed as “inter-session” period. The session of the House is terminated by an order called the “Prorogation Order” made by the President under article 85(2) of the

Constitution. Usually prorogation follows the adjournment of the House *sine die*. After obtaining the approval of the Cabinet Committee on Parliamentary Affairs to prorogue the House, the Ministry of Parliamentary Affairs conveys Government's decision to the Secretary-General.<sup>64</sup> On the basis of this communication, a note signed by the Secretary-General is sent to the Secretary to the President together with a Prorogation Order for approval and signature of the President in the following form:

In exercise of the powers conferred upon me by sub-clause (a) of clause (2) of article 85 of the Constitution, I hereby prorogue the Rajya Sabha.

The... (date), 20.....

PRESIDENT.<sup>65</sup>

On receipt of the Order as signed by the President, the same is published in the form of a notification in the Gazette of India, Extraordinary, under the signature of the Secretary-General the same day. Members are informed about the prorogation through a paragraph in the Parliamentary Bulletin, the general public through a press communique and media and Ministries of Government of India, etc. by circular.

The time-lag between the adjournment of the House *sine die* and its prorogation varies between 2 and 10 days, although there are instances when the Rajya Sabha was prorogued on the same or the next day of its adjournment *sine die*. There are also instances when the gap between the adjournment of the House *sine die* and its prorogation was somewhat long.

It is not necessary that both Houses should be prorogued simultaneously.<sup>66</sup>

The 170<sup>th</sup> Session of the Rajya Sabha commenced on 21 February 1994, and adjourned on 18 March 1994, to meet again on 18 April 1994; it again adjourned on 13 May 1994, to meet on 13 June 1994. The Lok Sabha was also adjourned likewise. However, on 24 May 1994, the Lok Sabha was prorogued<sup>67</sup> but the Rajya Sabha continued to be "in session."

On 24 and 25 May 1994, the President promulgated following three Ordinances<sup>68</sup> under Article 123(2)(a) of the Constitution:—

- (i) The Manipur Municipalities Ordinance 1994 (No. 6 of 1994);
- (ii) The Punjab Municipal Corporation Law (Extension to Chandigarh) Ordinance 1994 (No. 7 of 1994); and
- (iii) The New Delhi Municipal Council Ordinance, 1994 (No. 8 of 1994)

The 234<sup>th</sup> Session of the Rajya Sabha commenced on 23 February 2015 and adjourned on 20 March 2015 to meet again on the 20 April 2015.

The Lok Sabha was also adjourned likewise. However, on the 28 March 2015 Rajya Sabha was prorogued<sup>69</sup> but the Lok Sabha continued to be ‘in Session’.

On 3 April 2015 the President promulgated under Article 123(2)(a) of the Constitution The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 (Ordinance No. 4 of 2015).

On prorogation, a session of the House terminates. The prorogation affects different categories of business pending before the House as follows:

(a) *Bills*: Article 107(3) of the Constitution expressly provides that a Bill pending in Parliament shall not lapse by reason of the prorogation of the House. This saving also covers Bills pending before a Select or Joint Committee of the House(s).<sup>70</sup> Notices of intention to move for leave to introduce Bills also do not lapse on prorogation and no fresh notice is necessary in the next session for that purpose except where any sanction or recommendation granted under the Constitution in respect of a Bill has ceased to be operative.<sup>71</sup>

(b) *Motions and Resolutions*: On the prorogation, all pending notices except those relating to introduction of Bills as mentioned above, lapse and fresh notices must be given for the next session.<sup>72</sup> This covers notices of motions, calling attention, resolutions, amendments, etc. Motions and resolutions which have been moved and are not disposed in the session also lapse upon prorogation and are not taken up for further discussion in the next session unless a specific motion to that effect is moved and carried or the House agrees by consensus.<sup>73</sup>

On 30 April 1954, 10 December 1954 and 6 May 1994, motions were moved and the House agreed for adjournment of debates on private members’ resolutions then under discussion to the next days allotted for private members’ resolutions in the next sessions to be taken up as the first item on those days. Accordingly, the debate on the resolution of 30 April 1954, was resumed on 27 August 1954 (7<sup>th</sup> Session) and that of 10 December 1954, on 4 March 1955 (9<sup>th</sup> Session). So far as the resolution of 6 May 1994 was concerned, on 5 August 1994 (171<sup>st</sup> Session), the House agreed by consensus, to postpone further discussion thereon, to 19 August 1994, the next day allotted for private members’ resolution in the same session to be taken up as the first item on that day. Further discussion on the resolution on 19 August 1994 also remained inconclusive and the resolution was carried to the next session (172<sup>nd</sup> Session), following an announcement in this regard by the Chair with the consensus of the House. However, further discussion on the resolution could not be taken up during the 172<sup>nd</sup> Session due to abrupt adjournment of the House on 16 December 1994. On the recommendation of the Business

Advisory Committee, further discussion on the resolution was taken up on 24 March 1995 (173<sup>rd</sup> Session) and concluded that day.<sup>74</sup>

On 25 August 1995, the House by consensus decided that the discussion on the private member's resolution regarding New Telecom Policy should be resumed on the next day allotted for the purpose in the next session (175<sup>th</sup> Session).<sup>75</sup>

On 14 December 2012, the House by consensus decided that the discussion on the private members' resolution regarding need to amend Section 66A of the IT Act, 2000 should be resumed on the next day allotted for the purpose in the next session (227<sup>th</sup> Session).<sup>76</sup>

On 7 September 1970, further discussion on the Government Motion regarding Reports of the Commissioner for SC/ST was postponed to the next session to be taken up on its first day.<sup>77</sup> It was accordingly, resumed on 9 November 1970 (74<sup>th</sup> Session).

On 7 April 1971, on a motion moved, the discussion on a motion disapproving the conduct of some members during the President's Address was postponed to the next session. (However, it was not resumed in the subsequent session).<sup>78</sup>

On 1 December 1988, the Minister of State in the Ministry of Personnel, Public Grievances and Pensions and in the Ministry of Home Affairs, moved a motion for consideration of certain reports of the UPSC. The discussion remained inconclusive. It was resumed in the next session (149<sup>th</sup>) without any motion to that effect.<sup>79</sup>

*(c) Business pending before Parliamentary Committees:* The Rules of Procedure specifically provide that any business pending before a committee shall not lapse by reason only of the prorogation of the House and the committee shall continue to function notwithstanding such prorogation.<sup>80</sup>

On prorogation of either House of Parliament, the President has the power to issue Ordinances under article 123. If an Ordinance is issued and notified before the order of prorogation, the Ordinance would be void.<sup>81</sup>

### **Effect of dissolution of Lok Sabha on business before Rajya Sabha**

The Rajya Sabha is not subject to dissolution<sup>82</sup> unlike the Lok Sabha, which alone is subject to dissolution under the Constitution. All business pending before that House lapses on its dissolution. However, the dissolution of that House also affects the business pending before the Rajya Sabha to a certain extent, as indicated below:

*(a) Legislative business:* Article 107(4) provides that a Bill pending in the Rajya Sabha which has not been passed by the Lok Sabha shall not lapse

on the dissolution of the Lok Sabha. However, under article 107(5) a Bill which is pending in the Lok Sabha or which having been passed by the Lok Sabha is pending in the Rajya Sabha, lapses on the dissolution of the Lok Sabha. Under article 108(5), a Joint Sitting of both Houses to resolve a deadlock on a Bill may be held and a Bill passed in such a sitting, notwithstanding the fact that a dissolution of the Lok Sabha has intervened since the President has notified his intention to summon the Houses to meet in a Joint Sitting. The effect of these provisions, therefore, is—

- (i) Bills originating in the Rajya Sabha which are still pending in that House do not lapse on the dissolution of the Lok Sabha.
- (ii) Bills originating in the Rajya Sabha which having been passed by that House and transmitted to the Lok Sabha and pending there lapse on the dissolution of the Lok Sabha.

The number of Bills which lapsed under this category is: two of the First Lok Sabha, one of the Second Lok Sabha, six of the Third Lok Sabha, thirteen of the Fourth Lok Sabha, three of the Fifth Lok Sabha, four of the Sixth Lok Sabha, six each of the Seventh and the Eighth Lok Sabha, four of the Ninth Lok Sabha, one of the Tenth Lok Sabha, one of the Eleventh Lok Sabha, five of the Twelfth Lok Sabha, three of the Thirteenth Lok Sabha and one of the Fourteenth Lok Sabha.

- (iii) Bills originating in the Lok Sabha which having been passed by that House and transmitted to the Rajya Sabha and still pending there on the date of dissolution of the Lok Sabha, lapse.

The number of Bills which lapsed under this category is: two each of the Second and the Fourth Lok Sabha, four of the Sixth Lok Sabha, one of the Seventh Lok Sabha, four each of the Eighth and the Tenth Lok Sabha, one of the Eleventh Lok Sabha, four of the Twelfth Lok Sabha, and eight of the Fourteenth Lok Sabha.

- (iv) Bills originating in the Rajya Sabha and returned to that House by the Lok Sabha with amendments and still pending there on the date of its dissolution, lapse.

The Architects Bill, 1968, was passed by the Rajya Sabha on 7 May 1970. The Lok Sabha returned the Bill to the Rajya Sabha with amendments on 3 December 1970. The Bill as amended was pending till the Lok Sabha was dissolved on 27 December 1970. The Bill thus lapsed.

- (v) A Bill upon which the Houses have disagreed and the President has notified his intention to summon a Joint Sitting of the Houses to consider the Bill prior to dissolution does not lapse on the dissolution of the Lok Sabha.<sup>83</sup>

- (vi) A Bill passed by the two Houses of Parliament and sent to the President for assent does not lapse on the dissolution of the Lok Sabha.

There is no express provision in the Constitution regarding the effect of dissolution of the Lok Sabha on a Bill pending before the President for assent. In *Purshothaman Nambiar v. State of Kerala*,<sup>84</sup> it was held that a Bill pending assent of the Governor or President is outside clause (5) of article 196 and cannot be said to lapse on the dissolution of the Assembly.<sup>85</sup>

The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1991 as passed by the Lok Sabha was passed by the Rajya Sabha on 13 March 1991. The Ninth Lok Sabha was dissolved the same day. The Bill was submitted to the President for assent on 18 March 1991 by the Rajya Sabha Secretariat. The President withheld the assent to the Bill on 6 March 1992 and the Rajya Sabha was informed accordingly on 9 March 1992.<sup>86</sup>

- (vii) A Bill returned by the President to the Rajya Sabha for reconsideration of the Houses does not lapse if the dissolution of the Lok Sabha takes place without the Houses having reconsidered the Bill.

The Indian Post Office (Amendment) Bill, 1986, as passed by the Houses of Parliament was submitted to the President for his assent on 19 December 1986. The Bill remained pending before him till the dissolution of the Eighth Lok Sabha on 28 November 1989. The President returned the Bill to the Rajya Sabha for reconsideration of the Houses on 7 January 1990. The Ninth Lok Sabha was dissolved on 13 March 1991; the Tenth Lok Sabha was also dissolved on 15 May 1996. The Bill remained in the Rajya Sabha for reconsideration of the Houses till it was withdrawn on 21 March 2002.<sup>87</sup>

*(b) Business pending before Joint Committees of the two Houses:*

*(1) Joint Committees on Bills:*

On the dissolution of the Lok Sabha, a Joint Committee consisting of members of both Houses initiated by that House stands dissolved and as such, members of the Rajya Sabha serving on such a Joint Committee also cease to be the members of the said Joint Committee along with the members of the Lok Sabha. On the same analogy, on the dissolution of the Lok Sabha, members of the Lok Sabha serving on a Joint Committee initiated by the Rajya Sabha cease to be the members of such a Joint Committee. In both the cases the status of the Committee *qua* Joint Committee

disappears and the Joint Committee becomes *functus officio*. The Joint Committees initiated by the Rajya Sabha on the following Bills became *functus officio* on the dissolution of the Lok Sabha:

- (i) The Religious Trusts Bill, 1960; (ii) The Constitution (Thirty-second Amendment) Bill, 1973; (iii) The Multi-State Cooperative Societies Bill, 1977; (iv) The Khadi and Village Industries Commission (Amendment) Bill, 1978; (v) The Scheduled Castes and Scheduled Tribes Order (Amendment) Bill, 1978; (vi) The Prasar Bharati (Broadcasting Corporation of India) Bill, 1979; (vii) The Shipping Agents (Licensing) Bill, 1988; (viii) The Representation of the People (Amendment) Bill, 1990; and (ix) The Acquired Immuno Deficiency Syndrome (AIDS) Prevention Bill, 1990.

The following Joint Committees were constituted afresh when previous Joint Committees on the same Bills became *functus officio* due to dissolution of the Lok Sabha:

- (i) The Joint Committee on the Foreign Marriage Bill, 1963;<sup>88</sup> (ii) The Joint Committee on the Motor Vehicles (Amendment) Bill, 1965;<sup>89</sup> (iii) The Joint Committee on the Prevention of Water Pollution Bill, 1969;<sup>90</sup> (iv) The Joint Committee on the Code of Criminal Procedure Bill, 1970;<sup>91</sup> (v) The Joint Committee on the Viswa-Bharati (Amendment) Bill, 1978; and (vi) The Joint Committee on the Mental Health Bill, 1981.

The Viswa-Bharati (Amendment) Bill, 1978 introduced in the Rajya Sabha on 23 March 1978, was referred by a motion to the Joint Committee of Houses of Parliament on 25 July 1978. The Lok Sabha concurred in the motion on 31 August 1978. Before the Joint Committee could complete the work and present its Report, the Lok Sabha was dissolved on 22 August 1979. A new Lok Sabha was constituted on 21 January 1980. When the Minister of Education sought to move a motion for *de novo* reference of the Bill to a new Joint Committee on 17 June 1980, in the Rajya Sabha, a point of order was raised objecting to the form of the motion. It was contended that since it was the Rajya Sabha by which the Joint Committee was earlier set up, the dissolution of the Lok Sabha did not affect the existence of the Committee. The seats of the Lok Sabha members only became vacant and should be filled up by treating the Joint Committee as in existence. The earlier precedents of treating the Joint Committees as having become defunct should be set right. By his ruling given in the House on 1 July 1980, the Chairman, *inter alia*, observed:

It appears to me that the practice of having a *de novo* motion for reference of a Bill to a Joint Committee in the event of dissolution of the Lok Sabha subsequently, has become inveterate and we should follow it till a definite rule neutralises the precedents... As the matter is not *res integra* and is covered by precedents, I rule that the precedents which are clear should be followed in the present case also.<sup>92</sup>

The Ministry of Law and Justice whose opinion in the matter was sought was also of the view that earlier precedents should be followed.<sup>93</sup> The same procedure was followed in respect of the Joint Committee on the Mental Health Bill, 1981.<sup>94</sup>

(2) Statutory Joint Committees:

Members of the Rajya Sabha elected to serve on the Committee on Official Language which consists of members of both Houses continue to remain on that Committee notwithstanding the dissolution of the Lok Sabha. Only the members of the Lok Sabha on that Committee cease to be members of the Committee on the dissolution of that House. The reason for his position is that the Official Language Committee derives its authority from an Act of Parliament and the term of the members on that Committee is co-terminus with their term as members of the House.<sup>95</sup> As opined by the Ministry of Law and Justice:

It would be possible to distinguish it on the ground that it was a statutory Committee and the members having been elected to that Committee by the Rajya Sabha, they remain members and the Committee itself could continue to function notwithstanding the absence of the members of the Lok Sabha, consequent on its dissolution, provided the necessary quorum was present.<sup>96</sup>

(3) *Ad hoc* Committees:

An *ad hoc* Joint Committee of Parliament also becomes *functus officio* on the dissolution of Lok Sabha.

Consequent on the discussion on a calling attention, a House Committee<sup>97</sup> on functioning of Wakf Boards in the country was constituted on 29 October 1996. This committee was further converted into a Joint Committee involving members from Lok Sabha also. The Joint Committee stood dissolved due to dissolution of the Eleventh Lok Sabha on 4 December 1997. The Committee was reconstituted on request of some members on 28 January 1999. The Committee again stood dissolved due to dissolution of the Twelfth Lok Sabha on 26 April 1999. The Committee was reconstituted again on 27 May 2000, after the Thirteenth Lok Sabha was constituted. With the dissolution of Thirteenth Lok Sabha on 6 February 2004, the Committee again got dissolved. After the constitution of Fourteenth Lok Sabha on 17 May 2004, the Committee was reconstituted on 2 January 2006 and was dissolved consequent to the dissolution of the Lok Sabha in May 2009.

## NOTES AND REFERENCES

1. Art. 83(1).
2. Art. 83(2).
3. Art. 85(1).
4. Art. 85(2).
5. In the Rajya Sabha the common term used is “inter-session period”, or “interregnum”.
6. May, p. 144.
7. The last sessions of 1962 and 1990 extended to January of the next respective years.
8. R. 272.
9. Art. 77(3).
10. Annual Report of the Ministry of Parliamentary Affairs, 1993-94, p. 3.
11. The Summoning Orders for the 36<sup>th</sup> (1961), 52<sup>nd</sup> (1965) and 103<sup>rd</sup> (1977) sessions were signed by the Vice-President discharging the functions of the President; the Summoning Orders for the 69<sup>th</sup> (1969), 99<sup>th</sup> (1977), 100<sup>th</sup> (1977), 101<sup>st</sup> (1977) and 102<sup>nd</sup> (1977) sessions were signed by the Vice-President acting as the President.
12. F. No. 1/4/55-L.
13. R. 3(2).
14. R. S. Deb., 24.8.1953, c. 72-93.
15. F. No. 1/ 5/62-L.
16. F. No. 1/1/65-L.
17. F. No. 1/1/67-L.
18. F. No. 1/2/75-L.
19. F. No. 1/3/77-L.
20. R. S. Deb., 14.6.1962, c. 1-2.
21. Art. 85(1).
22. F. No. 40/9/67-L and R.S. Deb., 10.12.1968, c. 3333-34.
23. R. S. Deb., 26.11.1962, c. 2364-65.
24. R. 3(1).
25. When the Summoning Order is signed by the Vice-President discharging the functions of the President or the Vice-President acting as the President, necessary modification is made in the Summons.
26. R.S. Deb., 15.12.1969, c. 4172-73.
27. F. No. 1/4/69-L.
28. F. Nos. 1/3/75-L, 1/4/75-L, 1/1/76-L, 1/2/76-L, 1/3/76-L, 1/4/76-L, 1/1/77-L, 1/1/79-L, 1/3/81-L, 1/3/82-L, 1/1/84-L, 1/2/84-L, 1/1/85-L, 1/2/85-L and 1/1/2012-L.
29. F. No. 1/3/89-L.
30. F. No. 1/1/90-L.
31. F. No. 1/3/90-L.
32. F. No. 1/3/2003-L.
33. F. No. 1/1/2006-L.
34. F. No. 1/2/2008-L.
35. F. No. 1/1/2011-L.
36. F. No. 1/3/2013-L.
37. R. P. Act, 1951, s. 27.
38. F. No. 1/1/94-L.
39. F. No. 1/1/2000-L.
40. F. No. 1/1/2002-L.
41. F. No. 1/1/71-L.
42. F. No. 1/1/54-L.
43. F. No. 1/2/60-L.
44. F. No. 1/4/72-L.
45. F. No. 1/3/78-L.
46. F. No. 1/3/79-L.
47. F. No. 1/3/81-L.
48. F. No. 1/3/83-L.

49. F. No. 1/1/90-L.
50. F. No. 1/1/92-L.
51. F. No. 1/4/82-L; *see also* Bn. (II), 29.9.1982.
52. F. No. 1/3/57-L.
53. F. No. 1/3/65-L.
54. F. Nos. 1/3/68-L and 35/1/68-L.
55. F. Nos. 24/74/-T, 1/1/76-L and 1/1/77-L.
56. F. No. 24/81-T.
57. F. Nos. 15/90-T and 1/3/91-L.
58. F. Nos. 10/91-T, 1/4/91-L and 1/5/91-L.
59. F. No. R.S. 1/3/2011-L.
60. Bn. (II), 27.8.13, 6.9.2013.
61. Ilbert, C., *Parliament: its history, constitution and practice*, 3<sup>rd</sup> Edn. London: Oxford, 1950.
62. May, p. 144.
63. *H. Siddaveerappa & others v. State of Mysore*, AIR 1971, Mys. 200.
64. Annual Report of the Ministry of Parliamentary Affairs, 1993-94, pp. 3-4.
65. Prorogation Orders for the 35<sup>th</sup> and 36<sup>th</sup> sessions (1961) and the 51<sup>st</sup> session (1965) were signed by the Vice-President discharging the functions of the President. Prorogation Orders for the 68<sup>th</sup> session (1969), 99<sup>th</sup>, 100<sup>th</sup> and 101<sup>st</sup> sessions (1977) were signed by the Vice-President acting as the President.
66. Art. 85(2)(a).
67. L.S. Bn. (II), 24.5.1994.
68. L.S. Bn. (I), 13.6.1994.
69. R.S. Bn. (II), 28.3.2015.
70. R. 226.
71. R. 225.
72. *Ibid.*
73. R. 28(1).
74. R.S. Deb., 30.4.1954, c. 4776; 27.8.1954, c. 602; 10.12.1954, c. 1486; 4.3.1955, c. 1154; 6.5.1994; 5.8.1994; 19.8.1994; 24.3.1995; and BAC mts., 23.3.1995.
75. *Ibid.*, 25.8.1995.
76. *Ibid.*, 14.12.2012, p. 410.
77. *Ibid.*, 7.9.1970, c. 134.
78. *Ibid.*, 7.4.1971, c 209.
79. *Ibid.*, 1.12.1988, c. 358-78; and 3.4.1989, c. 129-70.
80. R. 226.
81. *Bidya Chowdhry v. Province of Bihar*, AIR 1950 Patna 19.
82. Art. 83(1).
83. Art. 108(5).
84. AIR 1962 SC 694.
85. Ministry of Law & Justice Opinion, F. No. 1/51/86-B.
86. R.S. Deb., 9.3.1992, c. 277; and F. No. 1/31/91-B.
87. Ministry of Law & Justice Opinion.
88. R.S. Deb., 13.5.1968, c. 2777-81.
89. *Ibid.*, 13.2.1968, c. 165-70.
90. *Ibid.*, 30.7.1971, c. 298-300.
91. *Ibid.*, 31.3.1971, c. 174-76.
92. *Ibid.*, 1.7.1980, c. 123-24.
93. F. No. 1/11/78-B.
94. R.S. Deb. 22.3.1985, c. 191-92.
95. The Official Language Act, 1963, s. 4.
96. Ministry of Law & Justice Opinion, *op. cit.*
97. Bn. (II), 31.10.1996, 28.1.1999 and 29.5.2000.

## CHAPTER–7

### **President's Address, Motion of Thanks and Messages**

#### **Constitutional provisions**

**A**rticles 86 and 87 of the Constitution deal with the Address by the President. Article 86 confers a right on the President to address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members. However, since the commencement of the Constitution, the President has not so far addressed a House or Houses together under this provision.

Article 87 deals with Special Address by the President and provides that the President shall address both Houses of Parliament assembled together at the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session of each year and inform Parliament of the causes of its summons.<sup>1</sup> Article 87(1) originally required the President to address both Houses of Parliament at the commencement of every session. The Constitution (First Amendment) Act, 1951, amended this provision. The Prime Minister while replying to the debate on clause 7 of the Constitution (First Amendment) Bill, 1951, observed:

The real difficulty of course, is that this involves a certain preparation outside this House which is often troublesome. Members are aware that when a coach and six horses come all kinds of things have to be done for that purpose. Anyhow that trouble does not fall on the House or members thereof, but on the administration of Delhi.<sup>2</sup>

No other business is transacted till the President has addressed both Houses of Parliament assembled together. In *Syed Abdul Mansur Habibullah v. The Speaker, West Bengal Legislative Assembly*, AIR 1966 Cal. 363, the Calcutta High Court in connection with article 176 regarding the Governor's Address observed:

If a Legislature meets and transacts legislative business without the preliminary address by the Governor, when required under article 176 its proceedings are illegal and invalid and may be questioned in a Court of Law.

As article 87 makes it clear, the Address is to be to both Houses of Parliament assembled together. In other words, it means that if at the time of commencement of the first session of the year, the Lok Sabha has been dissolved and the Rajya Sabha has to meet, then the Rajya Sabha can have its session without the President's Address. During the dissolution of the Lok Sabha in 1977 and 1991, the Rajya Sabha had its sessions on 1 February 1977 and 3 June 1991, respectively without the President's Address.

#### **Date and time for the Address**

A communication regarding commencement of a session is received from the Ministry of Parliamentary Affairs. When the President has to address both Houses of Parliament assembled together, the Ministry also informs about the date and time at which the President will address. However, the information regarding the Address is not given in the summons. Members are informed about the date, time and the venue of the President's Address through a paragraph in a Bulletin.

In the case of the first session after each general election to the Lok Sabha, the President addresses both Houses of Parliament assembled together after the members of the Lok Sabha have made and subscribed the oath or affirmation and the Speaker has been elected by the Lok Sabha. The President addressed both Houses of Parliament assembled together twice in the years 1957, 1962, 1989, 1991, 1996 and in 2009 when general elections also took place after the first session of the year had been held.

In the case of the first session each year, the President's Address takes place at the time and date notified for the commencement of the session of both the Houses of Parliament. Half-an-hour after the conclusion of the Address, the Houses assemble separately in their respective Chambers for the transaction of formal business.

However, in 2004, when the House assembled for the first time in the year on 30 January 2004, it was not treated as the first session of the year but as Part II of the 200th session of Rajya Sabha which commenced on 2 December 2003. Therefore, the session did not commence with the Address by the President. The President addressed both Houses of Parliament assembled together on 7 June 2004 in the 201<sup>st</sup> Session after the general elections to the Fourteenth Lok Sabha.

The President's Address generally takes place at 11.00 a.m. on the date fixed for the purpose. However, on 16 May 1952, the President's Address was fixed at 10.45 a.m. On 11 February 1953 at 2.00 p.m., on 15 February 1954 at 1.30 p.m., in 1957 (13 May 1957) at 10.45 a.m. and in 1962 (18 April 1962), it was fixed at 9.30 a.m.

### **Ceremonies connected with the Address**

Certain ceremonies are observed in connection with the President's Address. Members assemble in the Central Hall of Parliament sufficiently before the arrival of the President for the Address. Except for the rows reserved for Ministers, Deputy Chairman/Deputy Speaker and Leaders of Opposition parties/groups in both Houses, members occupy other seats which are not specifically allotted or earmarked.

The President arrives at Gate No.5, Parliament House (North-West portico) attended by his Secretary and Military Secretary and escorted by mounted bodyguards. The President's Bodyguard presents the "National Salute" and thereafter, the President is received at the Gate by the Chairman, Rajya Sabha, the Speaker, Lok Sabha, the Prime Minister, the Minister of Parliamentary Affairs and the Secretaries-General of both the Houses. The President is then conducted to the Central Hall in procession. As soon as the Presidential procession enters the Central Hall, the Marshal of the Lok Sabha announces the arrival of the President and the trumpeteers give a fanfare till the President arrives at the dais. Members rise in their places and remain standing until the President has taken his seat.

On reaching the floor of the Central Hall in front of the dais the procession bifurcates: the President and the Presiding Officers move towards their seats on the dais—the Chairman, Rajya Sabha, to the right and the Speaker, Lok Sabha, to the left of the the President who occupies the middle seat; the Prime Minister and the Minister of Parliamentary Affairs occupy the seats facing dais; the Secretary-General, Rajya Sabha, Secretary to the President and two ADCs move towards the chairs placed in the pit of the Central Hall on the right hand side of the dais and the Secretary-General, Lok Sabha, Military Secretary and two ADCs move towards the chairs at the left hand side of the dais. Two ADCs stand behind the President's Chair on the dais. Immediately thereafter, the National Anthem is played by the band of the Rashtrapati Bhawan which is positioned in one of the Lobbies of the Central Hall. Thereafter, as the President sits down, the Presiding Officers and members and visitors in the galleries resume their seats. The President then reads the Address in Hindi or English. The other version of the Address in English or Hindi, as the case may be is generally read out by the Vice-President.

In 1970, the President delivered the Address in English, and the Hindi version thereof was read by the Secretary to the President, at the conclusion of each paragraph by the President. When the Secretary, Rajya Sabha was about to lay a copy of the President's Address on the Table of the House that year, points of order were raised objecting to

the Secretary to the President reading the Hindi version of the Address. The Chairman, ruling out the points of order, observed that the proceedings of the House relating to the matter would be placed before the President.<sup>3</sup> From the year 2004 onwards, however, the practice has been that the Vice-President of India reads out only the first and last para, either in English or Hindi, as the case may be, of the other version of the President's Address.

After the conclusion of the Address, there is roll of drums followed by the National Anthem. The President thereafter leaves the Central Hall in a procession which is in the same order as at the time of his arrival. Members rise and remain standing till the procession leaves the Central Hall. On reaching the Gate, the President takes leave of the Presiding Officers, the Prime Minister, the Minister of Parliamentary Affairs and the Secretaries-General of both Houses. The President's Bodyguard presents the National Salute. The President then returns to the Rashtrapati Bhawan.

The entire ceremony, as also the delivery of the Address in both the versions, takes about an hour or sometimes more. The ceremony and the Address were televised live through the Doordarshan for the first time on 20 December 1989.

### **Significance of the occasion**

The President's Address to both Houses of Parliament assembled together is a solemn and formal act under the Constitution. Utmost dignity and decorum befitting the occasion are required to be maintained. It is, therefore, expected of a member not to do anything by words or action which would mar the solemnity or dignity of the occasion. Members are also requested through a Bulletin not to leave the Central Hall during the Address.

It is worthwhile to refer to the observations made by the Committee appointed by the Lok Sabha on the conduct of certain members during the President's Address:

It would be seen that the provisions of article 87 are mandatory in so far as the President has to address both Houses of Parliament assembled together and inform Parliament of the causes of its summons. It is a constitutional obligation for the President and he delivers his address in his capacity as the Head of the State. The President's Address is a statement of the Government policy of which, as the constitutional Head, he is the mouthpiece. It would be clear that where the Head of the State viz., the President, acts in exercise of a constitutional provision and requires the attendance of members of both the Houses

of Parliament to hear his Address, solemnity and dignity are of utmost importance. The President represents not only the executive authority, he is in a sense a symbol of the Constitution. It is noteworthy that following the practice in the Parliament of U.K. in so far as it is practicable under our conditions, the occasion is treated as a solemn one... This solemn occasion should, therefore, be marked by dignity and decorum.

It is important, from the point of view of showing proper respect to the Constitution, that every member should maintain utmost dignity and decorum. It is as much a constitutional obligation on the part of the members to listen to the President's Address with decorum and dignity as it is on the part of the President to address Parliament. Any action on the part of a member which mars the occasion of the President's Address or creates disturbance is thus unbecoming of him as a Member of Parliament.

Further, according to article 79, Parliament consists of the President and the two Houses. A member must show due respect to the President while he is discharging his duties under article 87, in order to uphold the dignity of Parliament itself.<sup>4</sup>

### **Incidents of disturbances during the Address**

The House may deal with the member creating disturbance on the occasion in the manner it deems fit. Sometimes, the House has condemned such an incident or discussed a motion for disapproval of the conduct of the erring members.

On 18 February 1963, at the commencement of the Address, a member of the Rajya Sabha was involved in interrupting the proceedings. Next day the matter was discussed in the Rajya Sabha. The House condemned the incident and expressed regret. At the conclusion of the debate the Chairman observed:

I agree with the views expressed by all the sections of the House that the conduct of the member of this House, who interrupted the President's Address yesterday and walked out, is reprehensible and unbecoming of a Member of Parliament. The President was performing a function enjoined on him under the Constitution and it should be remembered that the President himself is part of Parliament. He is entitled to the highest respect and any member who deviates from decorum and dignity deserves to be chastised. I shall write to the President conveying to him the deep regret of the House on this most regrettable incident.<sup>5</sup>

Next day, the Chairman sent a letter to the President conveying him "the deep regret of the Rajya Sabha on the most regrettable incident which took place yesterday at the commencement of your Address to

both Houses of Parliament assembled together in which one of the members of the Rajya Sabha behaved in a manner which was reprehensible and unbecoming of Member of Parliament.<sup>6</sup> On 20 February 1963, the Chairman read out to the House a letter received from the President appreciating the sentiments of the Rajya Sabha.<sup>7</sup>

On 23 March 1971, during the President's Address, three members of the Rajya Sabha created obstruction and showed disrespect to the President. At the sitting of the Rajya Sabha held on 7 April 1971, the following motion was moved to disapprove the conduct of those members:

That this House strongly disapproves of the conduct of Shri Raj Narain, Shri Nageshwar Prasad Shahi and Shri Sitaram Singh who created obstruction and showed disrespect to the President on the solemn occasion of his Address to both the Houses of Parliament assembled together under article 87 of the Constitution of India on 23.3.1971 and condemns their undesirable, undignified and unbecoming behaviour.<sup>8</sup>

The House discussed the matter at length but as more members wanted to participate, the Minister of Parliamentary Affairs moved a motion: "That the discussion on the motion be postponed to the next session," which was adopted.<sup>9</sup> The motion, however, was not taken up for further discussion in the next or any subsequent sessions.

In the following cases, however, the House did not take any note of the disturbances during the President's Address:

On 20 December 1989, during the Address, as soon as the President read out the relevant paragraph on Mandal Commission, a member of the Rajya Sabha started shouting about the non-implementation of the assurances regarding Mandal Commission.<sup>10</sup>

On 12 March 1990, during the Address, a member of the Rajya Sabha started making a parallel speech in protest against the non-implementation of the Mandal Commission Report...he chose to walk out.<sup>11</sup>

On 21 February 1991, during the Address, a member of the Rajya Sabha stood up and protested against the absence of any reference in it to the Mandal Commission Report. He then walked out.<sup>12</sup>

On 11 July 1991, during the Address, a member of the Rajya Sabha caused interruption.<sup>13</sup>

### Contents of the Address

The President's Address is the statement of policy of the Government and as such is drafted by the Government. The Address consists of several

paragraphs prepared on the basis of material supplied by different Ministries and Departments of the Government. Few months prior to the Address, the Prime Minister's Office requests all Secretaries to the Government of India to supply material on matters in respect of their Ministries/Departments for incorporation in the Address.<sup>14</sup> Therefore, it is not the President but the Government which is responsible for the contents of the Address.

The President's Address covers a large field rather briefly. The President's Address...represents the policy of Government...a repetition of Government's policy. It may not be a complete repetition of everything that the Government does; naturally it gives or tries to give a broad survey of the foreign and domestic fields.<sup>15</sup>

It contains a review of the activities and achievements of the Government during the previous year, policy with regard to important internal and international problems and Government's programme of business. But it does not cover the entire probable legislative business to be transacted during all the sessions of the year. Therefore, after the Address, a separate Bulletin is issued informing members of the probable Government's legislative and other business expected to be taken up during the session.

### **Separate sitting and laying a copy of the Address**

When members of the two Houses of Parliament assemble together to hear the President's Address, it does not constitute a sitting of the Rajya Sabha (or the Lok Sabha) since a sitting of the Rajya Sabha is duly constituted when it is presided over by the Chairman or a member competent to preside over a sitting of the Rajya Sabha under the Constitution or the Rules of Procedure and Conduct of Business in the Rajya Sabha.<sup>16</sup> It is also not a joint sitting of the two Houses since it has to be presided over by the Speaker of the Lok Sabha or in his absence by such person as may be determined by the Rules of Procedure made under clause (3) of article 118 of the Constitution. Moreover, a joint sitting of both Houses is contemplated only in certain cases and the assembly of members under article 87 is not one of those cases.<sup>17</sup> Sometimes, however, the President's Address has used the expression "Joint Session" to describe such assemblage of members of both Houses together, as may be seen from the following instances:

The President's Address delivered on 18 March 1967 and 17 February 1969, used the expression "Joint Session of the two Houses of Parliament". In 1971 and 1977, the Address contained the expression "Joint Session of the Fifth Parliament" and "Joint Session of the Sixth Parliament" respectively in the opening sentence. In 1980, the expression used was "First Joint Session of the Seventh Parliament." In 1985, the Address used the expression "First Session of the Eighth

Parliament" and in 1991 again the expression used was "Joint Session of Parliament."

The President's Address of 1971, contained the following opening sentence:

It gives me great pleasure to address this Joint Session of the Fifth Parliament of our Republic and summon you to new endeavours. A member raised a point with reference to the opening sentence contending that the joint session was not of the Fifth Parliament; it was the Fifth Lok Sabha. Rajya Sabha was a permanent body and, therefore, how can it be said, he asked, that it was the Joint Session of the Fifth Parliament.<sup>18</sup>

Half-an-hour after the conclusion of the Address, both Houses meet separately in their respective Chambers. Members are intimated about the separate sitting through a paragraph in the Bulletin as well as the Provisional Calendar of Sittings of the session. A copy each of the Hindi and English versions of the Address duly authenticated by the President, which is received in the Secretariat from the Military Secretary to the President, on the date of the Address, is laid on the Table of the House at that sitting by the Secretary-General. Thus, the House formally comes into possession of the Address.

Copies of both the versions of the Address are distributed to members in the Lobby or through the Publications Counter only after the Address is formally laid on the Table. Members are informed about this arrangement through a Bulletin. After transacting certain formal business such as obituary references, etc., laying of essential papers like Ordinances under article 123 or Proclamations under article 356, introduction of Bills and the like, the House is adjourned for the day.

#### **Procedure for correction of errors, if any, in the Address**

Sometimes typographical errors may creep in the Address. On the attention being drawn thereto, necessary corrigendum/erratum is issued by the Secretariat for the information of members.

In 1959, the Department of Parliamentary Affairs pointed out a typographical error in the Address delivered on 9 February 1959, that instead of the figure '59' Bills, the figure '49' was printed in paragraph thirty-five of the Address and desired that members be informed accordingly. Although by the time the error was detected, and the Motion of Thanks was adopted on 17 February 1959, an erratum was issued on 25 February 1959.<sup>19</sup>

In 1994, the President's Secretariat pointed out in a letter that the following sentence was missing in paragraph 44 of the Hindi version of the President's Address:

इस संदर्भ में मैं आश्वस्त हूं कि पिछले शनिवार को “अग्नि” के प्रक्षेपण में जिस उच्च तकनीकी क्षमता का प्रदर्शन किया गया है उसकी प्रशंसा करने में माननीय सदस्यगण मेरा साथ देंगे।

[In this context, I am sure hon'ble members will join me in applauding the successful demonstration of high technology in the launch of “Agni” last Saturday.]

It was clarified that the Hindi version when delivered by the President did contain that sentence. A corrigendum was, therefore, issued by the Secretariat before the discussion on the Motion of Thanks commenced in the House.<sup>20</sup>

In the case of any other inaccuracies in the Address, the procedure followed is that the President sends a message to the House before the error is rectified and incorporated in the proceedings of the House.

In 1982, the Secretary, Department of Parliamentary Affairs pointed out two inaccuracies which had crept in paragraph 17 of the President's Address and requested to issue the following errata through a Bulletin:

- (1) On page 5, in para. 17, line 7, for ‘1981’ read ‘1980’
- (2) On page 5, para. 17, line 12, after the words ‘under-sea link’ add the words ‘with Malaysia, microwave link.’

The Chairman took a view that ‘it is for the President to issue his own corrigendum which will be placed on the Table of the House also.’ The Department of Parliamentary Affairs was, therefore, informed to bring to the notice of the President the particular errors in his Address and on his approval of the corrections being made he was requested to send a message to the Rajya Sabha, either addressed direct to the Chairman or conveyed to him through a Minister so that the same could be announced in the House and laid on the Table and thereafter, it could be incorporated in the proceedings and official records of the Rajya Sabha. However, no further communication was received from the Government.<sup>21</sup>

### **Discussion on the Address by Motion of Thanks**

The Constitution requires that provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in the President's Address.<sup>22</sup> Under article 87(2), as originally enacted, the provision was required to be made

by the rules ‘for the precedence of such discussion over other business of the House.’ By the Constitution (First Amendment) Act, 1951, these words were omitted. In this connection, the Prime Minister observed:

The difficulty is that after the President has delivered his Address, it is right that the members should have two or three days to consider it and to propose Motions and not immediately to have to deal with it. Otherwise, two or three days may well be wasted and we will be doing nothing. So, the idea is not to postpone consideration of that Address, but not to waste those two or three days, fix a date for the consideration of the President’s Address three or four days later and come well prepared with your Motions and arguments. It would be absurd, of course, to try to discuss the President’s Address long after it is delivered. To get over the difficulty of waste of time, it was done...certainly it should be soon after it was delivered, though not immediately after.<sup>23</sup>

Thus, the discussion on the Address takes place a few days after it is delivered and in the intervening period other business is transacted. However, in 1957 (first Address), 1962 (first Address), 1971, 1972 and 1976 the discussion started the next day after the Address. In 1978, the President addressed on 20 February. According to the Bulletin circulated to members, the discussion was to commence on the next day itself, i.e., 21 February 1978. Some members raised an objection. At the suggestion of the Chairman, the matter was settled in his Chamber and the discussion commenced on 22 February 1978,<sup>24</sup> i.e., two days after the Address.

In 1996 after the general elections, the President addressed members of both Houses assembled together on 24 May, but the discussion could not be held as the Government headed by Shri Atal Bihari Vajpayee had in the meantime fallen after remaining in office for 13 days.

In 2000, the President addressed members of both Houses assembled together on 23 February. However, the discussion on the Address could not take place in the first half of the Budget Session due to a series of adjournments over the circular of the Government of Gujarat regarding removal of the ban imposed on the participation of its employees in the activities of R.S.S. and the action of the Governor of Bihar in the formation of Government in that State. The Motion of Thanks on the President’s Address was moved on 18 April 2000, in the second part of the Budget Session and the discussion also commenced on that day.<sup>25</sup>

The discussion on the Address is initiated by a Motion of Thanks moved by a member and seconded by another member.<sup>26</sup> Members who

have to move and second the Motion are from the ruling party. The notice of such a Motion is received through the Ministry of Parliamentary Affairs. The Motion of Thanks is then published in the bulletin and the list of business.

On an occasion (which was the first of its kind), the Motion of Thanks to the President's Address delivered on 13 February 1995, was admitted in the names of two members, one as a mover and another as a seconder<sup>27</sup> and the provisional dates for discussion fixed were 14, 15 March and 20 April 1995.<sup>28</sup> The House went into budget recess from 1 to 23 April 1995. Meanwhile the Ministry of Parliamentary Affairs sent another Motion, in the name of another member as mover and the earlier member as seconder. It was duly notified, superseding the earlier Motion. On 25 April 1995 (*i.e.*, more than two months after the Address), when the Motion of Thanks was taken up, a member raised a point of order about the substitution of the new name of the mover for the one notified initially. The Vice-Chairman disallowed the point of order stating that it was already considered by the Deputy Chairman before whom it was raised in her Chamber.<sup>29</sup>

The form of the Motion is:

That the members of the Rajya Sabha<sup>30</sup> assembled in this session are deeply grateful to the President<sup>31</sup> for the Address which he has been pleased to deliver to both Houses of Parliament assembled together on...(date).

As regards the form, a point of order was raised objecting to the use of the word 'grateful' in the Motion. It was contended that when rule 15 provided for Motion of Thanks, the Motion as worded was unconstitutional. The Deputy Chairman rejecting the point of order observed that according to the Oxford Dictionary, 'grateful' meant thankful and moreover, the same wording of the Motion has been used for a number of years.<sup>32</sup>

The Chairman allots time for the discussion of the Address under article 87(2) in consultation with the Leader of the House.<sup>33</sup> Although article 86(1) does not contain any provision for allotment of time for discussion of the matters referred to therein, nonetheless a rule has been made enabling the Chairman to allot time for the discussion of such Address also.<sup>34</sup>

About a week before the Address, a communication is received from the Ministry of Parliamentary Affairs indicating the proposed dates for the discussion on the Address. These dates are notified in the Bulletin for the information of members, which may, however, undergo change sometimes, if the House so desires. For instance, before the discussion on the Motion

of Thanks commenced on 24 March 1971, the Chairman announced the recommendation of the Business Advisory Committee that after the discussion on that day, it should be resumed after 31 March 1971, on days to be appointed by him.<sup>35</sup> It was accordingly, resumed on 1 April 1971. On another occasion, the discussion on the Address was to commence on 21 February 1974, as originally notified. However, on 19 February 1974, the Minister of State in the Department of Parliamentary Affairs suggested that in view of the demand made that day for discussion on doctors' strike, the discussion on the Address be postponed to 25 February 1974. The House agreed.<sup>36</sup>

The discussion commences with the member making the speech on the Motion and another member seconding the Motion speaks next.

On one occasion, the member seconding the Motion did not make the speech but merely stated that he had seconded the Motion; he made a speech after amendments to the Motion were moved.<sup>37</sup>

Generally, three or four days are allotted for the discussion, although eventually the discussion may get extended to more time. On the days allotted for the discussion, the House is at liberty to discuss the matters referred to in the Address.<sup>38</sup>

The scope of the discussion on the Motion of Thanks is very wide and members are at liberty to speak on any matter of national or international importance. The general limitations, however, that while speaking<sup>39</sup> a member cannot cast reflections on persons in high authority<sup>40</sup> or on the members of the other House<sup>41</sup> or bring in the name of the President<sup>42</sup> or refer to matters which are *sub judice*<sup>43</sup> or pending consideration of a Parliamentary Committee<sup>44</sup> apply to the discussion on the Motion of Thanks also.

### **Amendments to the Motion of Thanks**

Notices of amendments to the Motion of Thanks can be given only after the President has delivered the Address. Lists of amendments are, however, circulated to members only after the notice of Motion of Thanks is received and published in the Bulletin. As a matter of convention, amendments to the Motion of Thanks are given only by members belonging to a party in opposition to Government. In 1991, however, some members belonging to the ruling party also gave notices of and moved the amendments to the Motion of Thanks.<sup>45</sup>

In 2000, the President addressed members of both Houses assembled together on 23 February. The Motion of Thanks on the President's Address was, however, taken up on 18 April 2000 (second part of the session).

---

Meanwhile, some of the members who had given notices of amendments retired from the membership of Rajya Sabha before 18 April 2000. Consequently, a revised list of amendments was issued by the Secretariat from which the amendments in the name of the retired members were deleted.<sup>46</sup>

Amendments are generally tabled with reference to matters referred to in the Address as well as matters which, in the opinion of the movers of amendments, the Address has failed to mention.

There was a lengthy discussion in the Rajya Sabha regarding the scope of amendments to the Motion of Thanks in view of the use of the expression “matters referred to in the Address”, in article 87(2) and rules 13, 14 and 19. After some discussion had taken place, the Chairman ruled that he would allow those amendments to the Motion of Thanks which referred to the matters mentioned in the Address. He observed that while he would not take a narrow legalistic view of the matter and wanted to give as liberal an interpretation as possible, he could not ignore the provisions of the Constitution and the rules framed thereunder.<sup>47</sup>

This matter was again raised after a few years in the context of disallowance of an amendment to the Motion of Thanks given by a member. The Chairman reiterated his earlier ruling and observed that matters which were not directly discussed in the President’s Address were not to be given in the form of amendments but members might refer to them in their speeches. But of course, he suggested, there was a way by which this could be circumvented saying “It is regretted that there has been no mention about this, that and the other,” in the Address.

When the Chairman’s attention was drawn to an amendment regarding bilingual State of Bombay, permitted to be moved to the Motion of Thanks in 1956, even while the Address did not mention it, the Chairman observed that though there was no specific mention of that matter in the Address, the question of reorganisation of States was mentioned in the Address and had there been no such reference to that question, he would have disallowed the amendment.<sup>48</sup>

Amendments may be moved to the Motion of Thanks in such form as may be considered appropriate by the Chairman.<sup>49</sup> However, the general form of the amendment is as follows:

That at the end of the Motion, the following be added, namely:

‘but regret that the Address does not mention/fails to mention/does not take note of ...etc.’

On an occasion, however an amendment was also given in the form:

"and the House notes with satisfaction." etc..<sup>50</sup>

The notices of amendments given by members are scrutinised in the Secretariat and those which are *prima facie* in order are circulated to members. Amendments which are inconsistent with the provisions of the Constitution or refer discourteously to a friendly foreign government or Head of State or cast reflection on the conduct of persons in high authority such as a Chief Minister or Prime Minister or a Speaker of a State Assembly or are of frivolous nature or lacking factual basis or vague or are not within the scope of or relevant to the Address, are not admitted or circulated or may be circulated only after removing the objectionable references. For instance, an amendment which referred to the role of the Chief Election Commissioner was circulated after omitting the reference made to him. The members objected to the omission and did not move the amendment.<sup>51</sup>

The discussion on the Address is initiated by the proposer of the Motion, and followed by its seconder. The members who have given notices of amendments as per the list of amendments are then asked to move their amendments. Even at that stage, the Chairman has the discretion to rule any amendment out of order though it has been already circulated to the members.<sup>52</sup> The Chairman may permit amendments to be moved only after deletion of the objectionable parts thereof. Amendments are not permitted to be moved after the discussion has started. Both the Motion and the amendments moved thereto, are discussed together. The amendments are not discussed separately. The question of giving separate time to members for discussing their amendments. etc., therefore, does not arise.<sup>53</sup>

The Chairman may, if he thinks fit, prescribe a time limit for speeches.<sup>54</sup> The time allotted by the House for discussion on the Motion of Thanks is apportioned amongst various parties and groups in proportion to their strength in the House, as per the established practice.

The discussion on the Address is generally not interrupted during the course of the sitting of the House by any other business except of a formal character.<sup>55</sup> There had, however, been occasions when the discussion on the Address was interrupted in favour of a calling attention<sup>56</sup> or a short duration discussion.<sup>57</sup> The discussion on the Address may also be postponed in favour of a Government Bill<sup>58</sup> or other Government Business.<sup>59</sup>

While the discussion on the Address is in progress, the House expects that a Cabinet/senior Minister should always be present. The absence of

such a Minister has come for observations of the Chair on quite a few occasions:

On 1 May 1962, when the House reassembled after the lunch-break to further discuss the Motion of Thanks, a point was raised about the absence of any Minister. The House was adjourned for ten minutes.<sup>60</sup> Next day the Chairman observed:

For the first time in the last ten years the House had to be adjourned for ten minutes. When grave matters were under discussion here, there was not a single representative of the Government. I hope that such a situation will not occur again and Government will be careful about its responsibility to the House.<sup>61</sup>

On another occasion on the absence of a senior Minister during the discussion, the Chairman observed, "...it would be very useful if senior Ministers are present in the House when important things are being discussed." Later, the Deputy Chairman also observed, "I would again bring it to bear on the Government that some senior Cabinet rank Minister should be here." After sometime, the Prime Minister came and expressing regret observed, "I think that one of us should remain present here."<sup>62</sup>

Again, when a similar point about the absence of a Minister during the discussion on the President's Address was raised, the Deputy Chairman adjourned the House for fifteen minutes and expressed regret on the courtesy and disrespect shown to the House by the Cabinet Ministers.<sup>63</sup>

On 21 March 1967, the Deputy Chairman adjourned the House for ten minutes as there was no Minister in the House during the discussion on the Motion of Thanks.<sup>64</sup>

On a similar occasion later, the Chairman felt strongly about such absence and observed that the feelings of the House could be brought to the attention of the Cabinet Ministers.<sup>65</sup>

On another occasion, when a member wanted ruling from the Chair about the absence of any Cabinet Minister, the Vice-Chairman observed, "Some Cabinet Minister should also be present here as a matter of etiquette and courtesy."<sup>66</sup>

At the end of discussion, the Prime Minister or any other Minister, whether he has previously taken part in the discussion or not, has, on behalf of the Government, a general right of explaining the position of the Government.<sup>67</sup> The marginal heading of rule 18 indicates that Government has a right of reply (and not the mover of the Motion of Thanks). On one

occasion, however, the Chairman stated that the mover had a right of reply, although, thereafter the mover of the Motion merely stated that after the Prime Minister's speech, he (*i.e.*, the mover) should not take the time of the House.<sup>68</sup> Notwithstanding this, the established rule and practice have all along been that the Prime Minister or any other Minister replies to the discussion on the Motion of Thanks as will be seen from the following instances:

In 1952, 1953, 1954, 1957 and 1959, the Prime Minister intervened and the Leader of the House replied to the debates; in 1955, 1956 and 1958, the Leader of the House replied to the debates; in 1961, the Prime Minister intervened while the Minister of Law replied to the debate in the absence of the Leader of the House who was unwell; in 1964, the Minister of Home Affairs replied to the debate in the absence of the Leader of the House who was unwell; in 1960, 1962, 1963, 1965 and in subsequent years, the Prime Minister replied to the debates on the Motion of Thanks. In 1999 and 2000, the Leader of the House replied to the debates on the Motion of Thanks as the Prime Minister was unwell.

After the reply to the discussion, amendments that have been moved are disposed of. They are either withdrawn by leave of the House or put to the vote of the House. If a member who has already moved the amendment but is not present at the time of voting, the fate of his amendment is decided by the House in his absence. If the amendments are negatived, the Motion of Thanks as originally moved is put to the House and adopted by division, if necessary. However, in 1991, the Motion of Thanks was discussed on 27 February 1991 and 5 March 1991. The discussion remained inconclusive and the Motion of Thanks was not put to the House. This was due to the fact that the Prime Minister, Shri Chandra Shekhar, announced the resignation of his Government in the Lok Sabha on 6 March 1991.

If an amendment or amendments is or are carried, the Motion of Thanks as amended is put to the House and adopted.

In 1980, upon an amendment being carried, the Motion of Thanks was adopted in the following form:

That the members of the Rajya Sabha assembled in this session are deeply grateful to the President for the Address which he has been pleased to deliver to both Houses of Parliament assembled together on 23 January 1980, but regret that the Address does not take notice of the disturbing attempts to engineer defections on a large scale in the Assemblies in the States under the non-Congress(I) Governments and even to arbitrarily dissolve such Assemblies in flagrant violation of all

federal principles, nor does it give any assurance that the Government will not in any manner encourage, directly or indirectly, such attempts at subverting the Constitution and flouting democratic norms and standards.<sup>69</sup>

In 1989, six amendments to the Motion of Thanks were carried and the Motion of Thanks, as amended, was adopted in the following form:

That the members of the Rajya Sabha assembled in this session are deeply grateful to the President for the Address which he has been pleased to deliver to both Houses of Parliament assembled together on the 20 December 1989, but regret that the Address—

does not mention about the burning Ram Janmabhoomi-Babri Masjid dispute and the measures proposed by the Government to resolve the issue;

does not make any mention about the steps to be taken to avert destabilising State Governments;

fails to state that the Government will amend the Constitution to ensure the 'Right to Work' as a Fundamental Right;

does not mention about Indo-Sri Lanka Accord and also fails to specify Government's stand on the question of life and security of the Tamils and the devolution of power to the North-Eastern Provinces;

fails to define Government's stand on Anandpur Saheb Resolution which compromises the unity and integrity of the country;

does not contain any mention whatsoever of the abject surrender of the Government to the demands of anti-national secessionist forces in Jammu and Kashmir by releasing the terrorists in December 1989, thereby putting the entire nation and its dignity to ignominious shame.<sup>70</sup>

In 2001, upon an amendment being carried, the Motion of Thanks was adopted in the following form:

That the members of the Rajya Sabha assembled in this Session are deeply grateful to the President for the Address which he has been pleased to deliver to both Houses of Parliament assembled together on February 19 2001, but regret that the Address does not contain the Government's decision to sell out BALCO, a cent per cent owned Central PSU having a track record of continuous profit earning and having a huge cash reserve, to a private sector company whose track record of managing and running an Aluminium manufacturing company is not known and is of doubtful nature.<sup>71</sup>

In 2015, upon an amendment being carried, the Motion of Thanks was adopted in the following form:

That the members of the Rajya Sabha assembled in this Session are deeply grateful to the President for the Address which he has been pleased to deliver to both Houses of Parliament assembled together on February 23, 2015, but regret that there is no mention in the Address about the failure of the Government to curb the high-level corruption and to bring back black money<sup>72</sup>.

### **Conveying the Motion of Thanks to the President**

After the Motion of Thanks is adopted, it is conveyed to the President directly by the Chairman by a letter.

In 1952, the first Motion of Thanks was conveyed to the President by a letter. A suggestion was received that the Motion of Thanks should be conveyed to the President in person by the Secretaries of the respective Houses. Similarly, the President's reply should also be sent by an officer of the President's Secretariat. The detailed procedure was approved by the President in consultation with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha. It was decided to give effect to the new procedure from subsequent years. However, since the President was out of Delhi on those occasions in 1953, 1954 and 1955, the proposal could not be implemented. In 1956, therefore, it was decided that the existing procedure of conveying the Motion by a letter might continue.<sup>73</sup>

The letter is usually in the following form:

Dear Mr. President,

I have great pleasure in conveying to you the Motion of Thanks which the Rajya Sabha adopted at its sitting held on (date), on the Address delivered by you to both the Houses of Parliament assembled together on (date).

The terms of the Motion are as follows:—

[Text of the Motion as adopted]

Yours sincerely,  
Chairman

While conveying the Motion of Thanks in an amended form in 1989, the beginning portion of the letter was modified as "I have to convey to you," etc.<sup>74</sup>

In reply to the Chairman's letter, the President acknowledges the receipt of the Motion of Thanks that he has "received, the expression of thanks by the members of the Rajya Sabha for the Address" which he delivered to both Houses of Parliament assembled together. However, in 1980, 1989 and 2001, when the Motions of Thanks as amended were conveyed to the President, he sent messages thanking the Chairman for his demi-official letters conveying the Motions of Thanks.<sup>75</sup> The message of the President is read out to the House by the Chairman/Deputy Chairman/Vice-Chairman presiding at that time.<sup>76</sup> However, if the message from the President is received at a time when the House is not in session, then the same is notified in the Bulletin for information of members.<sup>77</sup>

### **Messages of the President and communication to the House**

The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent has with all convenient despatch to consider any matter required by the message to be taken into consideration.<sup>78</sup> Where such a message is received by the Chairman, he has to read out the message to the House and give necessary directions in regard to the procedure that shall be followed for the consideration of matters referred to in the message. In giving these directions, the Chairman has the power to suspend or vary the rules to such extent as may be necessary.<sup>79</sup> However, the President has not sent any message under this provision since the commencement of the Constitution.

The President may also send a message notifying his intention to summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on a Bill other than a Money Bill.<sup>80</sup> As contemplated in article 108(1), messages were received on 19 April 1961, 10 May 1978, and 22 March 2002 in respect of the Dowry Prohibition Bill, 1959, the Banking Services Commission (Repeal) Bill, 1977 and the Prevention of Terrorism Bill, 2002 respectively on which the two Houses had finally disagreed. The message in respect of the Dowry Prohibition Bill was received by the House, all members standing.<sup>81</sup> The Chairman also announced the dates fixed for the first two joint sittings. The date for a joint sitting on the Prevention of Terrorism Bill, 2002 was, however, notified in Rajya Sabha Parliamentary Bulletin Part-II after receiving intimation from the Minister of Parliamentary Affairs.<sup>82</sup>

The President may, as soon as possible, after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of

introducing any such amendments as he may recommend in his message and when a Bill is so returned, the Houses shall reconsider the Bill accordingly.<sup>83</sup> On 7 January 1990, the President sent a message to the Rajya Sabha returning the Indian Post Office (Amendment) Bill, 1986.<sup>84</sup> Similarly, on 30 May 2006, the President sent a message to the Rajya Sabha returning the Parliament (Prevention of Disqualification) Amendment Bill, 2006.<sup>85</sup>

### **Communication between the President and Rajya Sabha**

Communications from the President to the House are made to the Chairman by written message signed by the President or if the President is absent from the place of the meeting of the House, his message is conveyed to the Chairman through a Minister. The messages received from the President are read out by the Chairman to the House.<sup>86</sup>

Communications from the Rajya Sabha to the President are made—

- (1) by formal address, after motion made and carried in the House; and
- (2) through the Chairman.<sup>87</sup>

So far, no other communication save the one conveying the Motion of Thanks on the President's Address has been sent from the Rajya Sabha to the President.

#### **NOTES AND REFERENCES**

1. Art. 87(1).
2. Parl. Deb. (II), 2.6.1951, c. 9960.
3. R.S. Deb., 20.2.1970, c. 116.
4. Rpt., 8.3.1963, presented to Lok Sabha on 12.3.1963, pp. 5-6.
5. R.S. Deb., 19.2.1963, c. 91.
6. F. No. 2/2/63-L and Bn.(I), 19.2.1963.
7. R.S. Deb., 20.2.1963, c. 232-33.
8. *Ibid.*, 7.4.1971, c. 126.
9. *Ibid.*, c. 209.
10. *Hindustan Times*, 21.12.1989.
11. *Times of India*, 13.3.1990.
12. *Ibid.*, 22.2.1991.
13. *Hindustan Times*, 12.9.1991.
14. F. Nos. 2/1/74-L and 2/1/90-L.
15. C.S. Deb., 16.2.1953, c. 361.
16. Art. 118 and R. 10.
17. Art. 118(3) and (4), R. 5 of the Houses of Parliament (Joint Sittings and Communications) Rules.
18. R.S. Deb., 25.3.1971, c. 51-52.
19. Cited in F. No. 2/1/82-L.
20. F. No. 2/1/94-L.

21. F. No. 2/1/82-L.
22. Art. 87(2); *and* R. 14-19.
23. Parl. Deb. (II), 2.6.1951, c. 9959.
24. R.S. Deb., 20.2.1978, c. 31-40.
25. Bn. (I), 18.4.2000.
26. R. 15. However, there was no Motion of Thanks moved on the Address delivered on 24.5.1996, in view of the change in Government. *See also* R.S. Deb., 16.7.1996, when a member made a special mention regarding the need to discuss that Address.
27. Bn. (II), 17.2.1995.
28. *Ibid.*, 21.2.1995.
29. *Ibid.*, 29.3.1995 *and* R.S. Deb., 25.4.1995.
30. Till 1954, the Motion of Thanks (1952, 1953 and 1954) referred to Council of States instead of Rajya Sabha which nomenclature was adopted in April 1954.
31. When the Vice-President discharging the functions of or acting as the President addresses, the wording of the Motion is suitably modified. For instance, *see* Motions of Thanks of 1964 and 1977.
32. R.S. Deb., 25.2.1974, c. 106-11.
33. R. 14.
34. R. 20.
35. R.S. Deb., 24.3.1971, c. 14.
36. *Ibid.*, 19.2.1974, c. 102-03 *and* 134.
37. *Ibid.*, 4.4.1977, c. 112 *and* 146-51.
38. R. 15.
39. R. 238.
40. R.S. Deb., 1.3.1984, c. 292-93.
41. *Ibid.*, 26.2.1979, c. 283 *and* 289; *and* 27.12.1989, c. 325.
42. *Ibid.*, 20.2.1961, c. 499-501.
43. *Ibid.*, 8.1.1976, c. 145-46.
44. *Ibid.*, 1.3.1988, c. 212.
45. *Ibid.*, 17.7.1991 (Amendment Nos. 52-97, 192-225 *and* 257), c. 226-37, 253-61 *and* 263-76.
46. F. No. RS. 2/1/(A)/2000-L.
47. C.S. Deb., 19.5.1952, c. 78-94.
48. R.S. Deb., 12.2.1959, c. 442-44.
49. R. 16.
50. R.S. Deb., 20.2.1963, c. 264-65.
51. *Ibid.*, 17.7.1991, c. 222-25, 261-62 *and* 280.
52. C.S. Deb., 19.5.1952, c. 103; 13.2.1953, c. 73; 17.2.1954, c. 229; R.S. Deb., 23.2.1955, c. 203; 19.3.1957, c. 69; 16.5.1957, c. 411; 12.2.1958, c. 250; 11.2.1959, c. 282; 10.2.1960, c. 294-304; 13.3.1962, c. 102; 20.2.1963, c. 262-64; *and* 12.2.1964, c. 283 *and* 308.
53. R.S. Deb., 2.3.1970, c. 197.
54. R. 19.
55. R. 17(1)(b).
56. R.S. Deb., 24.2.1970, c. 192, etc.; *and* 25.3.1971, c. 18 *et seq.*
57. *Ibid.*, 24.2.1970, c. 226.
58. R. 17(2); R.S. Deb., 25.3.1971, c. 44 *et seq.*; *and* 28.12.1989, c. 356, etc.
59. R.S. Deb., 25.3.1971, c. 95, etc.
60. *Ibid.*, 1.5.1962, c. 1295-97.
61. *Ibid.*, 2.5.1962, c. 1499-1500.
62. *Ibid.*, 3.3.1965, c. 1733, 1742 *and* 1782.
63. *Ibid.*, 22.2.1966, c. 929; *and* 24.2.1966, c. 1252.
64. *Ibid.*, 21.3.1967, c. 355.
65. *Ibid.*, 23.3.1967, c. 608-10.
66. *Ibid.*, 1.4.1971, c. 173-74; *and* 22.2.1979, c. 228.
67. R. 18.

68. R.S. Deb., 30.1.1980, c. 344.
69. *Ibid.*, c. 351-56.
70. *Ibid.*, 29.12.1989, c. 363-64.
71. *Ibid.*, 12.3.2001, c. 523.
72. *Ibid.*, 3.3.2015, p. 452.
73. F. Nos. 2/1/55-L and 2/1/56-L.
74. F. No. 2/2/89-L.
75. F. Nos. 2/1/80-L, 2/2/89-L, 2/1/2001-L and Bn. (I), 20.3.2001.
76. R. 221.
77. Bn. (II), 16.4.1977 and 22.1.1990.
78. Art. 86(2).
79. R. 21.
80. Art. 108(1).
81. R.S. Deb., 19.4.1961, c. 49; 10.5.1978, c. 173-74; and 22.3.2002, p. 235.
82. Bn. (II), 22.3.2002.
84. Art. 111, *Proviso*.
85. Bn. (II), 10.1.1990.
86. *Ibid.*, 31.5.2006.
86. R. 221.
87. R. 222.

## CHAPTER–8

### Parliamentary Privileges

#### **Nature of privilege**

**A**ccording to Erskine May, “Parliamentary privilege is the sum of certain rights enjoyed by each House collectively... and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Some privileges rest solely on the law and custom of Parliament, while others have been defined by statute. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual members of each House and exist because the House cannot perform its functions without unimpeded use of the services of its members. Other rights and immunities, such as the power to punish for contempt and the power to regulate its own constitution belong primarily to each House as a collective body, for the protection of its members and the vindication of its own authority and dignity. Fundamentally, however, it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by members.

“When any of these rights and immunities is disregarded or attacked, the offence is called a breach of privilege and is punishable under the law of Parliament. Each House also claims the right to punish contempts, that is, actions which, while not breaches of any specific privilege, obstruct or impede it in the performance of its functions, or are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its members or its officers.”<sup>1</sup>

#### **What is contempt**

“Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.”<sup>2</sup>

In interpreting these privileges, therefore, attention must be given to the general principle that the privileges of Parliament are granted to

members in order that “they may be able to perform their duties in Parliament without let or hindrance.”<sup>3</sup> They apply to individual members “only insofar as they are necessary in order that the House may freely perform its functions. They do not discharge the member from the obligations to society which apply to him as much and perhaps more closely in that capacity, as they apply to other subjects.”<sup>4</sup> Privileges of Parliament do not place a Member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws, unless there are good and sufficient reasons in the interest of Parliament itself to do so.<sup>5</sup>

### Constitutional provisions

The Constitution of India specifies some of the privileges. These are freedom of speech in Parliament;<sup>6</sup> immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof;<sup>7</sup> immunity to a person from proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.<sup>8</sup> Courts are prohibited from inquiring into the validity of any proceedings in Parliament on the ground of an alleged irregularity of procedure.<sup>9</sup> No officer or Member of Parliament empowered to regulate procedure or the conduct of business or to maintain order in Parliament can be subject to a court’s jurisdiction in respect of exercise by him of those powers.<sup>10</sup> No person can be liable to any civil or criminal proceedings in any court for publication in a newspaper of a substantially true report of any proceedings of either House of Parliament unless the publication is proved to have been made with malice. This immunity is also available for reports or matters broadcast by means of wireless telegraphy.<sup>11</sup> This immunity, however, is not available to publication of proceedings of a secret sitting of the House.<sup>12</sup>

In other respects, the powers, privileges and immunities of each House of Parliament and of the members and committees thereof shall be such as may from time to time be defined by Parliament by law and until so defined, shall be those of that House, its members and committees immediately before the coming into force of Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.<sup>13</sup>

The framers of the Constitution had provided for the same powers and privileges for members, etc. as were possessed and enjoyed by the House of Commons at the commencement of the Constitution. The reference to the House of Commons in Clause (3) of Article 105 was omitted by the Constitution (Forty-fourth Amendment) Act, 1978. Since, however, no law defining the privileges has been made by Parliament so far, in actual practice, the position in this regard remains the same as it existed at the commencement of the Constitution.

### **Statutory provision**

Apart from the privileges as specified in the Constitution, the Code of Civil Procedure, 1908, provides for freedom from arrest and detention of members under civil process during the continuance of the meeting of the House or of a committee thereof and forty days before its commencement and forty days after its conclusion.<sup>14</sup>

### **Privileges based on Rules of Procedure and precedents**

The Chairman has a right to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member on a criminal charge or for a criminal offence.<sup>15</sup>

Members or officers of the House cannot be compelled to give evidence or to produce documents in courts of law, relating to the proceedings of the House without the permission of the House.<sup>16</sup>

Members or officers of the House cannot be compelled to attend as witnesses before the other House or a House of a State Legislature or a committee thereof without the permission of the House and without the consent of the member whose attendance is required.<sup>17</sup>

### **Consequential powers of the House**

In addition to the above mentioned privileges and immunities each House also enjoys certain consequential powers necessary for the protection of its privileges and immunities. These powers are: to commit persons, whether they are members or not, for breach of privilege or contempt of the House;<sup>18</sup> to compel the attendance of witnesses and to send for persons, papers and records;<sup>19</sup> to regulate its procedure and the conduct of its business;<sup>20</sup> to prohibit the publication of its debates and proceedings<sup>21</sup> and to exclude strangers.<sup>22</sup>

### **Penal powers of the House**

If any individual or authority violates or disregards any of the privileges, powers and immunities of the House or members or committees thereof, he may be punished for “breach of privilege” or “contempt of the House”. The House has the power to determine as to what constitutes breach of privilege and contempt. The penal jurisdiction of the House in this regard covers its members as well as strangers and every act of violation of privileges, whether committed in the immediate presence of the House or outside of it.

A person found guilty of breach of privilege or contempt of the House may be punished either by imprisonment,<sup>23</sup> or by admonition (warning)<sup>24</sup> or reprimand.<sup>25</sup> Two other punishments may also be awarded to the members for contempt, namely, ‘suspension’<sup>26</sup> and ‘expulsion’<sup>27</sup> from the House.

### **Freedom of speech and immunity from court proceedings**

Members have freedom of speech in the House and enjoy immunity from proceedings in any court in respect of anything said or any vote given by them in Parliament or in any committee thereof. The freedom of speech of members in the House, in fact, is the essential pre-requisite for the efficient discharge of their parliamentary duties, in the absence of which, they may not be able to speak out their mind and express their views in the House without any fear. Importance of this right for the Members of Parliament is underlined by the immunity accorded to them from civil or criminal proceedings in a court of law for having made any speech/disclosure or any vote cast inside the House or a committee thereof. Any investigation outside Parliament, of anything that a member says or does in the discharge of his parliamentary duties amounts to a serious interference with the member’s freedom of speech in the House. Therefore, to attack a member or to take or even threaten to take any action against him including institution of legal proceedings on account of anything said or any vote given by him on the floor of the House would amount to a gross violation of the privilege of a member.

The immunity granted to members under article 105(2), covers anything said in Parliament even though it does not strictly pertain to the business before the House. As stated by the Supreme Court:

The article confers immunity, *inter alia*, in respect of ‘anything said... in Parliament’. The word ‘anything’ is of the widest import and is equivalent to ‘everything’. The only limitation arises from the words ‘in Parliament’ which means during the sitting of Parliament and in the course of the business of Parliament... Once it was proved that Parliament was sitting and its business was being transacted, anything said during the course of that business would be immune from proceedings in any court. This immunity is not only complete but is as it should be... The courts have no say in the matter and should really have none.<sup>28</sup>

The freedom of speech available to the members on the floor of the House is different from that available to the citizens under Article 19(2). A law made under this article providing for reasonable restrictions on the freedom of speech of the citizens would not circumscribe the freedom of speech of the members within the walls of the House.<sup>29</sup> Members enjoy

complete protection even though the words uttered by them in the House are malicious and false to their knowledge.<sup>30</sup> Courts have no jurisdiction to take action against a member for his speech made in the House even if it amounts to contempt of the court.<sup>31</sup>

The express constitutional provisions contained in Clauses (1) and (2) of Article 105 are thus a complete and conclusive code in respect of the privilege of freedom of speech and immunity from legal liability for anything said in the House or for publication of its reports. Anything which falls outside the ambit of these provisions is, therefore, liable to be dealt with by the courts in accordance with law. Thus, if a member publishes questions which have been disallowed by the Chairman and which are defamatory, he will be liable to be dealt within a court under the law of defamation.<sup>32</sup>

The right of freedom of speech in the House is, however, circumscribed by the constitutional provisions<sup>33</sup> and the rules of procedure.<sup>34</sup> When a member violates any of the rules, the Chair has ample powers conferred by the rules to deal with the situation.<sup>35</sup>

In view of the immunity conferred on the member's right to speech and action in the House, its misuse can have serious effects on the rights and freedom of the people who could otherwise seek the protection of the courts of law. Members, therefore, as people's representatives, are under greater obligation to exercise this right with utmost care and without any prejudice to the law of the land. The Committee of Privileges, has emphasised that a Member of Parliament does not enjoy unrestricted licence of speech within the walls of the House. The Committee has observed:

It is against the rules of parliamentary debate and decorum to make defamatory statements or allegations of incriminatory nature against any person and the position is all the worse if such allegations are made against persons who are not in a position to defend themselves on the floor of the House. The privilege of freedom of speech can only be secured, if members do not abuse it.<sup>36</sup>

While doing so, the Committee has approvingly referred to the following observations contained in the Second Report of the Committee of Privileges, House of Commons (Section 1978-79) HC 222, p.v., para. 10):

...The privilege of freedom of speech is an important and necessary element in the work of Parliament. However, because of the immunity it confers, its misuse can have serious effects. Your Committee are well aware that from time to time members, in their anxiety to make their point, may use their privilege of freedom of speech in a way which because of the harm which it may do to other important rights

or freedoms and the disproportionate damage which may result to individuals who could otherwise seek the protection of the courts of law, would be regarded by other members as quite unjustifiable... Your Committee, therefore, consider it right to emphasise the obligation upon all members to have regard, in any decision to make statements in the House which, if made outside the House, would be defamatory or even criminal, to the widespread effect of such statements when reported through newspaper reports and broadcasts of proceedings, and to the prejudice and possibility of undeserved injury which may result to individual citizens who have neither remedy nor right of reply.

The provisions of Article 105(2) also apply in relation to persons who by virtue of the Constitution have the right to speak in, and otherwise to take part in the proceedings of either House or any committee thereof<sup>37</sup> as they apply in relation to Members of Parliament.<sup>38</sup>

### **Questioning a member for his disclosure in the House**

Members cannot be held accountable/questioned by an outside body for any speech/disclosure made or a vote given inside the House. This is essential for giving effect to their freedom of speech in the House. It is also a settled procedure that no member or officer of the House should give evidence in respect of any proceedings of the House or any committee thereof or any document relating to or connected with any such proceedings or in the custody of the officer of the House or produce any such document in a court of law without the leave of the House being first obtained.<sup>39</sup>

As regards disclosure that may be made by a member on the floor of the House and his accountability to any outside body, the Committee of Privileges has, *inter alia*, observed:

...it would be impeding a Member of Parliament in the discharge of his duties as such member if he is to be questioned in any place outside Parliament for a disclosure that he may make in Parliament. The right of a Member of Parliament to function freely and without fear or favour is in India, as in the U.K., a constitutional guarantee. This guarantee is subject only to the rules of the House and ultimately to the disciplinary jurisdiction of the House itself... any investigation outside Parliament of anything that a member says or does in the discharge of his duties as a Member of Parliament would amount to a serious interference with the member's right to carry out his duties as such member.<sup>40</sup>

If in a case a member states something on the floor of the House which may be directly relevant to a criminal investigation and is, in the

opinion of the investigating authorities, of vital importance to them as positive evidence, following procedure has been prescribed by the Committee:

...the investigating authority may make a report to the Minister of Home Affairs accordingly. If the Minister is satisfied that the matter requires seeking the assistance of the member concerned, he would request the member through the Chairman to meet him. If the member agrees to meet the Home Minister and also agrees to give the required information, the Home Minister will use it in a manner which will not conflict with any parliamentary right of the member. If, however, the member refuses to respond to the Home Minister's request, the matter should be allowed to rest there.<sup>41</sup>

### **Right to exclude strangers**

The right of the House to exclude strangers from the House is a necessary concomitant of the privilege of freedom of speech on the floor of the House. In a deliberative body like Parliament, privacy of debate is no less important for free and fair discussion than is the immunity from legal proceedings. As observed by the Supreme Court:

...the freedom of speech claimed by the House (of Commons) and granted by the Crown is, when necessary, ensured by the secrecy of the debate which in turn is protected by prohibiting publication of the debates and proceedings as well as by excluding strangers from the House. This right was exercised in 1923 and again as late as on 18 November 1958. This shows that there has been no diminution in the eagerness of the House of Commons to protect itself by secrecy of debate by excluding strangers from the House when any occasion arises.<sup>42</sup>

Rules of Procedure empower the Chairman to regulate the admission of strangers<sup>43</sup> and order their withdrawal from any part of the House.<sup>44</sup>

### **Right to control publication of proceedings**

Closely linked with the power to exclude strangers is the power of the House to prohibit publication of its debates and proceedings. Under the Constitution, absolute immunity from proceedings in any court of law has been conferred on all persons connected with the publication of proceedings of either House of Parliament, if such publication is made by or under the authority of the House. The publication of proceedings of Parliament is subject to the control of the respective Houses.<sup>45</sup>

The Secretary-General is authorised to prepare and publish a full report of the proceedings of the House in such form and manner as the Chairman from time to time directs.<sup>46</sup>

Publication by any person in a newspaper of a substantially true report of any proceedings of either House of Parliament is protected under the Constitution from civil or criminal proceedings in court unless the publication is proved to have been made with malice.<sup>47</sup> Statutory protection has also been given to such publication.<sup>48</sup>

But when debates or proceedings of the House or its committees are reported *mala fide*, i.e., there is either wilful misrepresentation or suppression of speeches of particular members or a garbled, distorted and perverted accounts of debates, it is a breach of privilege and contempt of the House. The Supreme Court has held:

...the House of Commons had at the commencement of our Constitution the power or privilege of prohibiting the publication of even a true and faithful report of debates or proceedings that take place within the House.

*A fortiori* the House had...the power or privilege of prohibiting the publication of an inaccurate or garbled version of such debates or proceedings. Nor do we share the view that it will not be right to entrust our Houses with those powers, privileges and immunities, for we are well persuaded that our Houses... will appreciate the benefit of publicity and will not exercise the powers, privileges and immunities, except in gross cases.<sup>49</sup>

As observed by the Chairman in a case:

The newspapers are eyes and ears of the public not present in the House. Unless the House puts a ban, the newspapers must be held to have the rights to reproduce fairly and faithfully and accurately the proceedings or any part thereof without let or hindrance from any person not authorised by the House or by any law. The newspaper may not misrepresent by editing, adding or unfairly omitting to give a totally wrong impression.<sup>50</sup>

If a member of either House publishes separately from the rest of the debate a speech made by him in the course of proceedings in Parliament, his printed statement becomes a separate publication, unconnected with any proceedings in Parliament, and he is legally responsible for any defamatory matter it may contain.<sup>51</sup>

### **Premature publication of proceedings**

Premature publication of proceedings, particularly those of the committees has been held to be a violation of the privilege and contempt of the House. In a case, contents of the evidence tendered by a witness

before the Committee of Privileges, Rajya Sabha, were published in newspapers before the report of the Committee was presented to the House. The Committee held that the act of premature publication of proceedings of the committee constituted breach of privilege and contempt of the House. Having regard to the regret expressed and apology offered by the newspapers, the Committee, however, did not recommend any punishment in this case. While cautioning all concerned that in future any premature publication or disclosure of proceedings of the committees would be dealt with seriously, the Committee observed:

It is well established that the proceedings of a Parliamentary Committee are confidential and what transpired in the meetings of the committee should not be disclosed or given any publicity, unless the same is presented to the House or is otherwise treated as not confidential.<sup>52</sup>

Any publication of a draft or approved report of a Parliamentary Committee, before such report has been presented to the House or to the Chairman, is treated as a breach of privilege of the House.

### **Publication of expunged proceedings**

Similarly, it is a breach of privilege and contempt of the House to publish expunged proceedings of the House. In this regard the Supreme Court has held:

The effect in law of the order of the Speaker to expunge a portion of the speech of a member may be as if that portion had not been spoken. A report of the whole speech in such circumstances though factually correct, may, in law, be regarded as perverted and unfaithful report and the publication of such a perverted and unfaithful report of a speech, *i.e.*, including the expunged portion in derogation to the orders of the Speaker passed in the House may, *prima facie*, be regarded as constituting a breach of the privilege of the House arising out of the publication of the offending news-item.<sup>53</sup>

Shri Kuldip Nayyar, gave a notice of breach of privilege against Shri Chandan Mitra, Editor of *The Pioneer* for reproducing in an editorial of the paper certain remarks made by him in the House, which were expunged by the Chairman. The matter was referred to the Committee of Privileges for examination and report. In view of the apology tendered by Shri Mitra and taking into account the fact that the impugned article was not *mala fide*, the Committee decided to drop the matter and accordingly reported to the House.<sup>54</sup>

### Misrepresentation of proceedings

Misrepresenting or misreporting the proceedings of Parliament have been found to be the gross violation of privilege and contempt of the House.

In a case, the publishers published in a book the Finance (No. 2) Bill, 1980, as Finance (No. 2) Act, 1980, even before it was passed by the Rajya Sabha and assented to by the President. The Committee of Privileges held that the act amounted to deliberate and wilful effort on the part of the authors and publishers to misrepresent the proceedings and actions of the House and, therefore, constituted a breach of privilege and contempt of the House.<sup>55</sup> The Committee, therefore, recommended that the principal contemner be committed to jail till the prorogation of the House and the co-authors, be reprimanded by the House.<sup>56</sup> When the Report of the Committee came up before the Rajya Sabha on 11 December 1980, the House adopted a motion recommitting the matter to the Committee for reconsideration of its recommendations regarding imposition of punishment on the contemnors.<sup>57</sup> The Committee after reconsidering the matter recommended in its subsequent report that the principal contemner should also be reprimanded along with the co-authors.<sup>58</sup> Accordingly, the contemnors were reprimanded by the Chairman at the bar of the House on 24 December 1980.<sup>59</sup>

On many occasions members give notices of breach of privilege against persons or newspapers concerned for alleged misreporting or distorting the proceedings of the House or the committees thereof. The Chairman, depending upon the merits of the case, either disposes the matter after giving his observations/rulings thereon or refers it to the Committee of Privileges for examination, investigation and report. Some of the important cases are mentioned below:

The earliest case (*Thought* case) which was referred to the Committee arose from certain observations contained in a feature article appearing in a weekly journal *Thought* of New Delhi. The relevant passage in the article was: When a Congress member Mr. H.P. Saksena (U.P.) did a bit of skinpeeling that exposed the spots on the Communist friends of the Nagas, Mr. Gupta did the obvious: he flew into a rage. ‘This was’, he shrieked, (Mr. Gupta’s voice is too shrill to permit a thunder) ‘fatuous, fantastic, untrue’. As this appeared to be wilfully unfair and mendacious reporting of the proceedings of the House, the Chairman referred it to the Committee which, in view of the explanation and regret by the Editor, recommended that no further action be taken by the House in the matter.<sup>60</sup> The House agreed, by a motion.<sup>61</sup>

On 12 August 1966, a member gave a notice and invited the attention of the Chairman to a report published in the *Times of India* under the

caption ‘Sabotage by Reds in Durgapur Confirmed.’ The report was based on the previous day’s proceedings of the Rajya Sabha. It was contended that the charges of sabotage against the Communists levelled on the floor of the House were not confirmed by the Government and, therefore, the newspaper was guilty of deliberately misleading the readers with malicious intention against a party in Parliament. The Chairman was requested to refer the matter to the Committee of Privileges. The Chairman, however, after hearing the viewpoints of other members observed:

...The headline, in my opinion, is not justified. Of course, I do not want to take a serious view of it but I only want to point out to the press that they owe a great responsibility to this House and in giving headlines they should not do anything which can be taken as partisanship or any such thing.

The notice was withdrawn by the concerned member.<sup>62</sup>

Again, on 29 March 1967, a member pointed out in the House that the *Indian Express* of that day reported the proceedings of the House in a malicious and unfair way. The sentence “The new familiar pastime of baiting Generals Kaul and Choudhuri occupies half of the Question Hour in the Rajya Sabha,” it was contended, accused both sides of the House of baiting the Generals; whereas the truth was that information was being sought during the Question Hour. The Chairman observed:

We in this House are very anxious not to have differences with the press, and we leave many things unnoticed which otherwise we may have noticed. But this in my opinion is absolutely unfair and the press also owes this House a duty. In reporting the proceedings the reporting must be absolutely objective and opinions, suggestions and insinuations should not be brought in. Otherwise, this House will have to take a serious view of the matter.<sup>63</sup>

Another newspaper *The Statesman* was alleged to have committed a breach of privilege by publishing a wrong and distorted version of a speech made by a member in the House. After reading the said article and considering the matter, the Deputy Chairman observed:

I think newspaper reporting should be more careful, not to put anything in the mouth of members. To make fair comments about members’ speeches is, of course, within the jurisdiction of the press. They can comment in any manner they like, but to make quotation and to say that a particular member has said this when he has not said it, is wrong. I think the paper should be more careful in this respect.<sup>64</sup>

On 27 March 1973, a member sought to raise a question of privilege against the Editor of the *Motherland* for attributing to him certain

remarks which he had not made in the House. The editor accepted the mistake, expressed regret and published the same in his paper. The Chairman dropped the matter.<sup>65</sup>

Similarly when a complaint was raised against a Tamil daily *Alai Osai* for misreporting a member's speech, the Editor of the paper regretted and the matter was dropped.<sup>66</sup>

In another case, a complaint of breach of privilege arose out of misleading report of the proceedings of the House relating to the speech of the Minister of Industry, published in the *National Herald*. In the report, some reasons were given and attributed to the Minister on the closure of Coca Cola, IBM and threats to Birlas, whereas the Minister had not given any such reasons or threats. The paper published a correction and the Editor regretted the mistake. The matter was dropped with the Chairman observing, "...the press would exercise great care in reporting accurately the proceedings of the House so that such misreporting and distortion do not occur in future."<sup>67</sup>

In one case, a summary of a speech delivered by a member in the House on 9 June 1980, was published in the *Assam Tribune*. The member alleged that the paper had misrepresented his speech. While informing the House that the Editor had published his apology and expressed regret, the Chairman observed:

I would like to observe that the Press should be circumspect in reporting the proceedings of the House...If there is editing with a view to *suppressio veri* or *suggestio falsi*, then in my sole judgement I shall take appropriate action. I hope that misreporting and such other things will not occur in future.<sup>68</sup>

On 23 April 1981, several members gave notices of breach of privilege against the Editor of *Blitz*, a weekly and his Chief of Delhi Bureau for misrepresenting and distorting a ruling given by the Chairman on 26 March 1981, regarding notices of a question of privilege against Shri C.P.N. Singh, the then Minister of State in the Ministry of Defence. The matter was referred to the Committee of Privileges for examination, investigation and report. The Committee after considering the matter carefully found that the Chief of the Delhi Bureau of the weekly had distorted the ruling of the Chairman and used intemperate language in relation to the ruling. The Committee felt that the weekly appeared to have unduly played up the Chairman's observations, blown them out of proportion and given them the slant which was not intended. The Committee in its report came to the conclusion that the impugned article produced an impression and effect contrary to what had been stated and intended by the Chairman and to that extent it amounted to misrepresentation of the proceedings of the House. No action was taken in the matter as recommended by the Committee, in view of the expression of regret by the editor.<sup>69</sup>

### **Right of the House to regulate its proceedings**

Each House of Parliament enjoys an inherent and exclusive authority to conduct and regulate its proceedings in the manner it deems proper. This right is the natural corollary of the immunity from proceedings in a court of law in respect of anything said or done inside the House. It is well settled now that each House has the exclusive jurisdiction over its internal proceedings. No authority other than the House and its Presiding Officer has any say in the matter relating to conduct of its proceedings.<sup>70</sup> Accordingly, each House of Parliament has been empowered under Article 118 of the Constitution to make rules for regulating its procedure and conduct of its business. Article 122 of the Constitution guarantees that the validity of proceedings of Parliament cannot be questioned in any court of law for any “alleged irregularity of procedure”. The Supreme Court held:

Article 118 is a general provision conferring on each House of Parliament the power to make its own rules of procedure. These rules are not binding on the House and can be altered by the House at any time. A breach of such rules is not subject to judicial review in view of Article 122.<sup>71</sup>

The proceedings of the Houses cannot be challenged in a court on the ground that they have not been carried on in accordance with the rules of procedure or that the House deviated from the rules duly made under Article 118. Interpretation of the rules also is the exclusive preserve of the Presiding Officer and ultimately of the House itself. But immunity from judicial interference is confined only to the matters of “alleged irregularity of procedure”<sup>72</sup> as distinguished from “illegality of procedure”. Clause (2) of Article 122 provides that the Presiding Officer of each House or any other officer or the Member of Parliament, who for the time being, is vested with the power to regulate the proceedings, conduct of business or maintenance of order in the House of Parliament, shall not be subject to jurisdiction of the courts in the exercise of those powers.

The Allahabad High Court in this regard held:

...this Court is not, in any sense whatever a court of appeal or revision against the legislature or against the rulings of the Speaker who, as the holder of an office of the highest distinction, has the sole responsibility cast upon him of maintaining the prestige and dignity of the House.

...this Court has no jurisdiction to issue a writ, direction or order relating to a matter which affected the internal affairs of the House.<sup>73</sup>

In other words, the House has collective privilege to decide what it will discuss and in what order, without interference from a court of law. No writ, etc. can be issued by a court restraining the Presiding Officer “from allowing a particular question to be discussed, or interfering with the legislative processes of either House of the Legislature or interfering with the freedom of discussion or expression of opinion in either House.”<sup>74</sup>

### **Production of documents before a court**

Inasmuch as the House has the exclusive jurisdiction over its proceedings, leave of the House is necessary for giving evidence in a court of law in respect of the proceedings in that House or committees thereof or for the production of any documents connected with the proceedings of that House. According to the First Report of the Committee of Privileges of the Rajya Sabha “no member or officer of the House should give evidence in respect of any proceedings of the House or any committee thereof, or any documents relating to or connected with any such proceedings or in the custody of officers of the House or produce any such documents in a court of law without the leave of the House being first obtained.”<sup>75</sup>

If such requests are received when the House is not in session, the Chairman in order to prevent delays in the administration of justice, has been empowered to permit a member or officer of the House to give evidence or produce the relevant documents before a court of law in respect of any of the above matters. This fact has to be brought to the notice of the House immediately after it assembles. If, however, the matter involves any question of privilege, especially the privilege of a witness or should the production of the document appear to the Chairman to be a subject for the discretion of the House itself, he may decline to grant the required permission and refer the matter to the Committee of Privileges for examination and report.

Whenever any document relating to the proceedings of the House or any committee thereof is required to be produced before a court of law, the court should request the House stating precisely the nature of the documents and the date by which they are required. It should also be specifically stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before the court.

A court summon was received asking a Security Officer of the Rajya Sabha Secretariat to appear before the Court of Additional District and Sessions Judge, Patiala House, on 14 February 1997, in person relating to the attendance of a member and production of a casual

entry pass issued to one other person. In response, the Additional District and Sessions Judge was apprised of the fact that a document which is in the custody of the Secretary-General can, with permission of the Chairman/House, either be produced in a court of law by an officer of the Secretariat or a certified copy of the same can be given to the court on receiving a request to that effect from the court. No document is parted away in original. The original counterfoil of the pass in question was produced in the court on 7 January 1998, with the permission of the Chairman, Rajya Sabha. When the Judge insisted that the original document be deposited in the court, the officer of the Secretariat refused to part with the same as he was not authorised to do so. Subsequently, the court was apprised of the position in this regard through a letter and a certified copy of the counterfoil of the pass was deposited in the court in accordance with the established parliamentary practices in this regard.<sup>76</sup>

Similarly, when the oral evidence of an officer of the House is required, the court should request the House stating precisely the matter and the date on which his evidence is required. The purpose for taking his evidence should also be clearly specified. A suitable form has been prepared by the Ministry of Home Affairs in consultation with the Ministry of Law for use by the courts when they require production of a document in the custody of the House or oral evidence of any officer of the House is required.

When such a request from courts is received during the session period, the matter may be referred by the Chairman to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman of the Committee or one of its member to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House.<sup>77</sup>

The above procedure was laid down by the Committee in the context of a request received by the Secretary, Rajya Sabha, in April 1958 to produce before the Tribunal “by a competent person the file containing the correspondence with the Indo-German Trade Centre, Calcutta, regarding the installation of the automatic vote recording system in the Rajya Sabha during 1956-57”. The question before the Tribunal was about the disqualification of Shri Biren Roy, member of the Lok Sabha, because of his connection with the above mentioned firm which had entered into a contract with the Government for installation of the system. The Committee recommended that the correspondence be produced before the Tribunal. The House adopted the report of the Committee on 2 May 1958.<sup>78</sup>

All records relating to the attendance of members are in the custody of the Secretary-General and the same may be supplied only to a court of

law with the permission of the House, if it is in session or of the Chairman, if the House is not in session.

A request was received from the Sessions Judge, Cuddalore, for certified extracts from the Attendance Register from 1 March 1963 to 15 March 1963, in the Rajya Sabha, showing the presence and attendance of Shri R. Gopalakrishnan, member of the Rajya Sabha. As the House was not in session when the said request was received, the Chairman granted permission to send the relevant extracts from the Attendance Register duly certified to the Sessions Judge. The extracts were sent on 30 January 1964, and the Deputy Chairman informed the House accordingly.<sup>79</sup>

As regards the production of printed/published debates of the House or reference to them in a court, a view was held that no leave of the House was required for the purpose. Under Section 78 of the Evidence Act, 1872, the proceedings of Legislatures could be proved by copies thereof, printed by order of the Government. The question of obtaining the leave of the House would arise only if a court required the assistance of any of the members or officers in connection with the proceedings of the House or production of documents in the custody of the Secretary-General of the House.<sup>80</sup>

In this connection, it may also be stated that in the House of Commons, parties to a suit who desire to produce such evidence or any other document in the custody of officers of the House accordingly petition the House, praying that the proper officer may attend and produce the material. However, in 1980 the House of Commons agreed to permitting reference to be made in court to certain parliamentary papers such as official report and the published reports and evidence taken by committees, without the necessity of the presentation of a petition for leave of the House.<sup>81</sup>

There have also been numerous instances where the records were sought by the investigating agencies (police/CBI) for scrutiny in connection with various cases. In all cases records were shown and copies thereof made available to them with the stipulation that the same would not be used or produced before a court of law without obtaining prior permission of the Chairman for that purpose.<sup>82</sup>

### **Freedom from arrest**

A Member of Parliament is not liable to arrest or detention in prison, under a civil process, during the continuance of a session of the House or meetings of any committees, of which he may be a member, and during forty days before and after such session/meeting.<sup>83</sup>

The need for freedom from arrest of the Members of Parliament lies in the fact that every Legislature is entitled to have the first claim upon the services of its members and that any person or authority who prevents or obstructs a member from attending to his parliamentary duty is guilty of breach of privilege and the contempt of the House.

### **Arrest for criminal offences or under preventive detention laws**

The privilege of freedom from arrest, however, is not intended to interfere with the administration of criminal justice or laws relating to emergency legislation such as preventive detention. The immunity, therefore, has been limited only to civil cases. The Madras High Court has held that the privilege of freedom from arrest “cannot extend or be contended to operate, where a Member of Parliament is charged with an indictable offence”.<sup>84</sup> The privilege of freedom from arrest thus ceases to operate where a Member of Parliament has been charged with a criminal or indictable offence, primarily on the ground that the House should not protect a Member from the process of criminal law. He cannot, therefore, pray for a writ of *mandamus* directing the State to enable him to attend the session of the Legislature. In fact, there is no statutory provision granting such privilege or immunity.<sup>85</sup>

According to the Calcutta High Court, preventive detention partakes more of a criminal than of a civil character. It only allows persons to be detained who are dangerous or are likely to be dangerous to the State. It is true that orders of preventive detention are made when criminal charges possibly would not be established, but the basis of the orders are a suspicion of nefarious and criminal or treasonable activities.<sup>86</sup>

### **Detained member's right to attend session**

If a member is arrested under Preventive Detention Act and is lawfully detained even without actual trial, he cannot claim that his detention should be subordinated to his right to attend the session of Parliament. Members of Parliament can claim no special status higher than that of an ordinary citizen, in so far as a valid order of detention is concerned and are as much liable to be arrested and detained under it as any other citizen.<sup>87</sup>

In this context, the Supreme Court observed:

Rights of a Member of Parliament to attend the session of Parliament to participate in the debate and to record his vote are not constitutional rights in the strict sense of the term and quite clearly, they are not

fundamental rights at all. So far as a valid order of detention is concerned, a Member of Parliament can claim no special status higher than that of an ordinary citizen.<sup>88</sup>

A member detained under the emergency legislation or on criminal charges, cannot claim immunity on the ground that he has to attend the session, even if he has received summons to this effect. Requests received from the members so detained for attending the sitting of the House have generally been rejected by the Chairman. The Chairman cannot compel or direct the Government to permit a member to attend the sittings of the House, if he has been apprehended and detained under the law relating to preventive detention or under code of criminal procedure.<sup>89</sup> The member may, however, approach the competent authority which may permit him to attend the sitting and go back to the jail.

There have been two cases when members of the Rajya Sabha were permitted to attend the session under police escort.

Shri Raj Narain, member of the Rajya Sabha, who was arrested under Sections 107/117 of the CrPC, was permitted by the Supreme Court to attend the session under the police escort to participate in the proceedings of the House. He accordingly attended the House on 4 and 5 September 1970 and took part in the debate on the Constitution (Twenty-fourth Amendment) Bill, 1970, relating to the abolition of privy purses.<sup>90</sup>

Miss Saroj Khaparde, member of the Rajya Sabha, was allowed to attend the session under police escort by the Judicial Magistrate, F.C., Nagpur. She was transferred from Nagpur to Delhi for that purpose, as per the communication received in the matter. Miss Khaparde accordingly attended the House.<sup>91</sup>

On one occasion when the Chairman informed the House about the intimation received from the Government of Madras regarding the temporary release of a member of Rajya Sabha on parole for a month “to enable him to attend to certain family matters in Delhi”, a member requested the Chairman to allow that member to attend the House. The Chairman declined observing, “If under the law he can come under the conditions under which he has been released I do not know.” The Leader of the House stated, “If the law permits him to do that, there will be no obstacle in his way”.<sup>92</sup>

Members detained are required to obtain leave of absence from the House.<sup>93</sup>

### **Exemption from attending as witness in a court**

The privilege of exemption from attending as a witness in a court is akin to the privilege of freedom from arrest in a civil case and is based on

the principle that attendance of a member in the House takes precedence over all other obligations and that the House has the paramount right and prior claim to the attendance and service of its members.

On 1 May 1974, the Chairman received a notice from the Supreme Court in the matter of the Special Reference under Article 143 of the Constitution regarding Presidential election. The notice required the Chairman to appear before the Court through an Advocate and take such part in the proceedings before the Court as he may deem fit. The General Purposes Committee before whom the matter was placed advised that no action need be taken by the Chairman on the notice. The House agreed with the decision.<sup>94</sup>

### **Immunity from service of legal process and arrest within the precincts of the House**

No arrest can be made within the precincts of the House nor a legal process, civil or criminal, served without obtaining the permission of the Chairman, and this permission is necessary whether the House is in session or not. Precincts of the House have been defined in the rule.<sup>95</sup>

The Government of India (Ministry of Home Affairs) has issued instructions to the authorities concerned to the effect that courts of law should not seek to serve a legal process, civil or criminal, on Members of Parliament through the Chairman or the Secretariat. Such a process should be served direct on the members concerned outside the precincts of Parliament, *i.e.*, at the residence of a member or any other place.<sup>96</sup> Instructions have also been given to the effect that requests for seeking the permission to make arrests within the precincts of the House, should not be made by the authorities concerned as a matter of routine, but confined only to urgent cases where the matter cannot wait till the adjournment of House for the day. The request in each case should be signed by an officer not below the rank of a Deputy Inspector General of Police and should state the reasons why arrest within the precincts of the House is necessary.<sup>97</sup>

Whenever the Secretariat receives any summon, notice or any other process from a court or a commission for service on a member of the Rajya Sabha, the same is returned to the issuing authority and its attention is invited to the practice of not serving the processes through the Secretariat.<sup>98</sup>

### **Intimation about arrest, etc. of members**

When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority,

as the case may be, has immediately to intimate such fact to the Chairman indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the prescribed form.<sup>99</sup> When a member is arrested and after conviction released on bail pending an appeal or is otherwise released, such fact has also to be intimated to the Chairman by the authority concerned in the prescribed form.<sup>100</sup> The information so received is communicated by the Chairman to the House, if it is sitting or is published in the parliamentary bulletin part II, if the House is not sitting, for the information of members.<sup>101</sup> If, however, the intimation of the release of a member, whether on bail or discharge on appeal is received before the House is informed of the original arrest, it is not necessary to intimate the House of the arrest, or subsequent release or discharge.<sup>102</sup> Again, if the member has started attending the House before it has been informed of the release of the concerned member, the information is not read to the House but is published in the Parliamentary Bulletin for the information of members.<sup>103</sup>

The Committee of Privileges while examining a complaint of breach of privilege arising out of the alleged failure on the part of the concerned authorities to send intimation about the arrest and detention of a member by the police at Madras, observed that where a restraint was put on the movement of a member, such as his removal (without taking a member in formal custody), the fact should be immediately communicated to the Chairman for its information whether or not such restraint amounted to arrest or detention in the legal sense.<sup>104</sup>

In a case where a delegation of Members of Parliament was prevented from visiting a riot-affected area and was kept waiting for fifteen hours without being formally arrested, the Committee of Privileges, *inter alia*, observed:

...it would have been better if the authorities concerned by way of abundant caution sent factual information about the circumstances under which the delegation was stopped from visiting the riot-affected areas.<sup>105</sup>

There have been many occasions in the Rajya Sabha where members have complained about their arrest on the ground that it was *mala fide* or their arrest was to prevent members from attending the House or there was delay or improper furnishing of information of arrest of members. Some important cases are mentioned below:

(i) *Mala fide* arrest

In a complaint a member alleged that he was arrested on a warrant with entries thereon manipulated and without the signature of the

magistrate and the seal of the court. When *prima facie* the warrant appeared to be a doubtful document, the Chairman referred the matter to the Committee of Privileges. The Committee examined the matter fully and came to the conclusion that alterations in the warrant should have been countersigned. However, the arrest was neither illegal nor *mala fide*.<sup>106</sup>

(ii) *Arrest and thereby preventing a member from attending the House*

On 23 December 1969, the Minister of State in the Ministry of Home Affairs made a statement regarding the arrest of certain Members of Parliament in connection with a demonstration outside the Parliament House on the previous day. A member alleged that the arrests amounted to preventing members from attending the House that day. The Deputy Chairman disallowed the question of privilege by differentiating between arrest in normal conditions and arrest in abnormal conditions and stated that all circumstances of arrest had to be taken into consideration.<sup>107</sup>

(iii) *Furnishing incorrect information*

On the basis of the information communicated through the Parliamentary Bulletin regarding his arrest, etc. the concerned member stated in the House that he was never arrested at the place and time nor released at the time mentioned in the Bulletin. This was followed by a notice of breach of privilege given by the member. The matter was referred to the Committee of Privileges. The Committee, after examining the matter, came to the conclusion that incorrect information was given. However, in view of the fact that there was no want of *bona fides* on the part of the police official nor was there a deliberate attempt to mislead the House, the Committee accepted regret and apology tendered by the concerned police officials before it. The Committee also observed: "The casual and perfunctory manner in which information has been communicated to the Chairman leaves much to be desired. The communication has been sent in utter disregard to the sanctity of communication addressed to the Chairman for the information of the Rajya Sabha."<sup>108</sup>

(iv) *Delay in sending intimation*

On 1 March 1981, a member was arrested and later released on the same day. A wireless message dated 3 March 1981, was received by the Chairman on 4 March 1981, and was published in the Parliamentary Bulletin on the same day. On 5 March 1981, several members raised in the House the matter of delay in sending the intimation of arrest and release of the member. This was followed by the concerned member giving notice of breach of privilege which was referred to the Committee of Privileges by the Chairman. The Committee noted that there was

a delay of couple of days and consequently a lapse on the part of police officials. The Committee was informed that State Government had conveyed its displeasure/awarded censure to the concerned officials. It, therefore, recommended that the matter need not be pursued further.<sup>109</sup>

### **Withholding communications from a member in custody**

It constitutes a breach of privilege to withhold a communication from a member under arrest or detention addressed to the Chairman or the Secretary-General, Rajya Sabha or the Chairman of a parliamentary committee. It has now been recognised that, as long as the person detained continues to be member of the House, he is entitled to the right of correspondence with and to make representations to the Chairman, Rajya Sabha or the Chairman of a committee. No executive authority has any right to withhold such correspondence. This right flows not merely from the principles of natural justice but also from certain powers and privileges enjoyed by him as a member guaranteed by the Constitution.<sup>110</sup>

### **Ill-treatment of members by police/jail authorities**

Members have time and again given notices of breach of privilege arising out of alleged misbehaviour or ill-treatment received from law-enforcing agencies or jail authorities. Some of these cases are mentioned below:

On 31 July 1967, Shri Bhupesh Gupta, Shri A.P. Chatterjee, Shri Raj Narain and Shri Mulka Govinda Reddy submitted to the House that on 29 and 30 July 1967 certain members of the Rajya Sabha and the Lok Sabha were prevented illegally and forcibly by the police from going into the Prime Minister's house, in the absence of specific orders to that effect. They contended this to be a matter of breach of privilege. They also alleged rude behaviour on the part of the police. The Home Minister, Shri Y.B. Chavan, while responding to the matter stated that since the members reportedly talked of picketing the Prime Minister's house, the police were only doing their duties under the Police Act to see that the entrance and exit of the Prime Minister's house were not blocked. The Chairman, on 2 August 1967, while ruling that there was no question of breach of privilege in the matter, however, reiterated that Members of Parliament are entitled to the utmost consideration and respect and the police or other authorities should not do anything which is likely to impede them in the proper discharge of their duties.<sup>111</sup>

On an occasion, members sought to raise the question of manner in which a member was arrested and treated in jail. The Deputy Chairman

observed that if a Member of Parliament was arrested, it was necessary and essential that proper medical care and attention was provided to him.<sup>112</sup>

A member's complaint regarding his ill-treatment in jail was referred to the Committee of Privileges but in the absence of any response from the concerned member rebutting the version of the State Government, the Committee felt that no useful purpose would be served by pursuing the matter.<sup>113</sup>

On 9 March 1989, a member made a special mention in the House about the ill-treatment meted out to him during his arrest about which the Minister of Home Affairs had made a statement in response to the matter being raised in the House. The Chairman referred the matter to the Committee of Privileges. In view of the concerned officials having been warned to be careful in future, as per the communication of the Ministry of Home Affairs, the Committee recommended that no further action need to be taken in the matter.<sup>114</sup>

On an incident of ill-treatment of a lady member which was referred to the Committee of Privileges by the House when it was raised on 23 May 1990, the Committee felt that the matter need not be pursued further in view of the apology tendered by the concerned police officials before the Deputy Chairman (Chairman of the Committee).<sup>115</sup>

In an incident, a member of the Rajya Sabha complained that when he was coming out of Parliament House Annexe and proceeding towards Parliament House to attend the sitting of the House, a constable rushed towards him, caught hold of him by his right arm and virtually forced him to stand in a corner until everything was clear. This happened in spite of the member having disclosed his identity. The Chairman referred the matter to the Committee of Privileges. The Committee was informed that the constable had been placed under suspension and a departmental inquiry had also been ordered against him. The Deputy Commissioner of Police also tendered unqualified apology for the misbehaviour of the policeman to the member personally. The Committee, therefore, recommended that the matter need not be pursued further.<sup>116</sup>

In yet another case of ill-treatment of a member by the police officials, the Committee of Privileges to which the case was referred observed that the member was not treated with the courtesy and dignity which was due to him as a Member of Parliament. However, in view of the steps taken by the State Government to check the recurrence of such incidents in future and the regrets expressed and unconditional apologies tendered by all concerned, the Committee recommended that the matter need not be pursued further.<sup>117</sup>

In a case of allegation that the police officers had insulted and humiliated a member by using abusive language, the Committee of Privileges to which the case was referred by the Chairman, recommended that the matter need not be pursued further in view of the regrets expressed and unconditional apologies tendered by all concerned. The Committee, however, desired that the State Government concerned should ensure due compliance with the instructions issued by the Central Government from time to time in respect of modalities of official interaction with Members of Parliament.<sup>118</sup>

While dealing with the question of ill-treatment meted out to a member under custody, the Committee of Privileges observed that “Members of Parliament are entitled to utmost consideration at the hands of public servants”. The Committee further said:

The police or any other authority should not do anything or act in a manner which will hamper Members of Parliament in their functioning as public men. The authorities concerned, while dealing with the Members of Parliament, should act with great restraint and circumspection and show all courtesies which are legitimately due to the representatives of the people. The police should exercise utmost discretion and forbearance and should not put more fetters on the personal liberty of a citizen, particularly of Members of Parliament even for a short period than are reasonably necessary to meet a particular situation.<sup>119</sup>

On an occasion, the Committee of Privileges considered a series of complaints of members about obstruction/manhandling/misbehaviour by policemen, at Parliament House or elsewhere in Delhi, referred to it. The Committee expressed its anguish and concern over the manner in which Members of Parliament were treated by the police, and strongly felt that they being the representatives of the people in the Parliament should be treated with utmost courtesy and circumspection by the law enforcing authorities, since any disrespect or discourtesy shown to a Member of Parliament impinges upon the dignity of the Parliament, besides causing personal affront and discomfiture to members. Subsequently, at the request of the Committee, the Minister of Home Affairs met the Committee informally and assured to take appropriate steps to avoid recurrence of such incidents involving Members of Parliament. The Committee recommended that the Government should frame detailed guidelines for dealings (i) between the administration and legislators; and (ii) police and legislators, consistent with the dignity of members to avoid such complaints. The Committee expressed the hope that stern action would be taken by the Government against erring persons, whether in administration or police, on this score and that appropriate guidelines, if implemented in letter and spirit, would help reduce such complaints in future.<sup>120</sup>

### **Handcuffing of members**

Use of handcuffs for a member under arrest on a criminal charge does not constitute a breach of privilege.

A member gave a notice to raise a privilege issue relating to the handcuffing of another member while the latter was being taken to the court in the Baroda Dynamite case. The Deputy Chairman ruled that it was not a privilege matter.<sup>121</sup>

On another occasion a member of the Rajya Sabha was arrested and detained in jail under criminal law. He was taken to court in handcuffs. His contention that handcuffing was a breach of privilege available to a Member of Parliament, was not accepted by the Chairman.<sup>122</sup>

The Ministry of Home Affairs has issued instructions in regard to the handcuffing of Members of Parliament under arrest. According to these instructions, there should ordinarily be no occasion to handcuff prisoners such as Members of Parliament and the State Legislatures, persons occupying good positions in public life and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he will use violence or attempt to escape.<sup>123</sup>

### **Imputing motives to members**

It is well established that speeches and writings or libels reflecting upon the proceedings of the House or any member thereof, for, or relating to, his services therein is a violation of the rights and privileges of the House. It has further been held that written imputations affecting a member may amount to a breach of privilege without being libels under common law, provided such imputations concern the character or conduct of the member in that capacity. It is, however, for the House to decide whether any particular publication constitutes such an affront to the dignity of the House or its members in their capacity *qua* members as would amount to a contempt of Parliament.<sup>124</sup>

In *Ram Gopal Gupta's* case the Committee of Privileges held that certain passages contained in a letter circulated by a businessman of Kanpur attributed motives to members in putting certain questions in the House and, therefore, constituted breach of privilege and contempt of members of the House and the House itself. In view of the nature of the offence, the Committee decided to recommend that the contemner should be reprimanded at the Bar of the House. However, subsequently the contemner tendered an unconditional and unqualified apology. The Committee, therefore, recommended that the House would best consult its own dignity by taking no further notice of the matter.<sup>125</sup>

In *Ram Nath Goenka*'s case, certain statements made by a Minister in the House were described as "maliciously misleading" by Shri Goenka as per report in the *Indian Express*. The Committee held Shri Goenka guilty of committing a breach of privilege and contempt of the House. The Committee, however, did not recommend any action in the matter since Shri Goenka was elected to the Lok Sabha in the meantime.<sup>126</sup>

In the *Economic Times* case where certain "base" motives were attributed to a member for his speech during a short duration discussion, in an Editorial in the newspaper, the Committee held that certain observations in the Editorial attributed ulterior motives to a member. However, in view of the regret expressed before the Committee and subsequent apology by the Editor published in an issue of the paper, the Committee recommended that no further action be taken by the House in the matter.<sup>127</sup>

In a case of alleged intimidation and imputing motives to a member in a letter written to him by the Group President, Reliance Industries Limited, the Committee of Privileges observed, *inter alia*, that in the interest of free flow of information between the people and their representatives, fetters cannot be put on such communications even if the tone is disrespectful or the information not genuine, so long as there is no intention to deter a member from performing his Parliamentary duty or influencing him in his Parliamentary conduct. The Committee while holding that there was no breach of privilege in the matter, further recommended that the House record its expectation that communications to Members of Parliament from members of public will be couched in courteous and temperate language so as to facilitate members in discharging their obligations as public representatives to the best of their ability.<sup>128</sup>

#### **Speeches and writings reflecting on the House, its members, etc.**

It is a breach of privilege and contempt of the House, to make speeches or to print or publish any libels reflecting on the character or proceedings of the House or its committees or on any member of the House for or relating to his character or conduct as a Member of Parliament. Such speeches or writings are punished by the House as a contempt on the principle that such acts "tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them."<sup>129</sup>

In the *Hindustan* case, certain statements contained in an Editorial of the *Hindustan*, a Hindi daily, were captioned 'Niradhar, Anargal Wa Anuchit' (Baseless, Absurd and Improper). The Committee of Privileges to which the matter was referred by the House, held that the impugned statements and similar others in the Editorial cast serious reflections on the character and proceedings of Parliament and on the conduct of

its members and thereby tended to bring the Parliament and its members into disrepute. In view of the apology tendered and regret expressed by the Editor of the paper, the Committee recommended that no further action be taken in the matter.<sup>130</sup>

In order to constitute a breach of privilege, however, a written imputation upon a Member of Parliament must concern his character or conduct in his capacity as a member of the House.<sup>131</sup> Reflections on members otherwise than in their capacity as members do not, therefore, involve any breach of privilege or contempt of the House.

A member complained that certain references were made to him in an article in a Bombay Weekly emphasising that his “amorous proclivities” amounted to a reflection on his fitness to discharge his duties as a Member of Parliament. The Committee of Privileges to which the matter was referred by the Chairman, concluded that the references and the innuendos did not concern the character or conduct of the concerned member *qua* a Member of Parliament and as such did not amount to a breach of privilege.<sup>132</sup>

Similarly, speeches or writings containing vague charges against members or criticising their parliamentary conduct in a strong language particularly in the heat of a public controversy, without, however, imputing any *mala fides* are not treated by the House as a contempt or breach of privilege.

In a case where the complaint was based on certain paragraphs of an affidavit filed in a suit in the High Court of Bombay, the Committee of Privileges came to the conclusion that the said paragraphs did not contain any direct or explicit insinuation against any member of the Rajya Sabha. In any case, in the opinion of the Committee, the statements contained therein were not free from ambiguity.<sup>133</sup>

In the *Hindustan Times* case the Committee of Privileges was considering certain writings contained in a feature article “*National Affairs*” with a sub-title “*Shades of the Star Chamber*”. According to the Committee, the author of the article had used strong language and had expressed himself equally strongly in relation to certain discussions that took place in the Rajya Sabha concerning the House of Birlas. Nevertheless, the Committee felt that it was not necessary to attach undue significance to such writings and thereby bring them within the ambit of the privilege of the House. In this context the Committee quoted with approval the following observations of Gladstone:

Breach of privilege is a very wide net, and it would be very undesirable that notice should be taken in this House of all cases in which hon’ble members are unfairly criticised. Breach of privilege

is not exactly to be defined. It is rather to be held in the air to be exercised on proper occasions when, in the opinion of the House, a fit case for its exercise occurs. To put this weapon unduly in force is to invite a combat upon unequal terms wheresoever and by whomsoever carried on...Indeed, it is absolutely necessary that there should be freedom of comment. That freedom of comment may, of course, be occasionally abused; but I do not think it is becoming the dignity of the House to notice that abuse of it.<sup>134</sup>

Reflections upon members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House.<sup>135</sup> There have been cases in the Rajya Sabha when cognizance had been taken of general statements against Members of Parliament without any member being named.<sup>136</sup>

In a lengthy ruling given while disposing a complaint of privilege arising out of an article in the *Times of India* captioned '*Black Money and Crime*' which commenced with a sentence, 'Dacoits, smugglers and bootleggers are now honoured Members of the Legislatures', the Chairman rejected the contention of the Editor that there was no reference at all to the Rajya Sabha and so the matter could not be raised there. He held, *inter alia*, that general statements of this type were "not a libel of any particular member or of any particular House but a libel in gross...This profuse employment of the plural number (in the impugned sentence), discloses an intention to traduce legislative institutions generally...and deliberately employed to show that legislators are universally tainted."<sup>137</sup>

In a case of alleged derogatory remarks against Members of Parliament by India's Ambassador in USA, which were reported in the Asian Age dated 21 August 2007, the Members of Parliament were referred to as 'running around like headless chickens', in the matter pertaining to Indo-US Civil Nuclear Agreement; the Committee *inter alia* was of the view that the personal frame of mind should not have influenced the public utterances of a senior and experienced diplomat. The Committee observed that the diplomat should have reacted on the issue with abundant caution and restraint while conversing with the correspondent. In view of the diplomat's unconditional apology and his having admitted that the impugned remarks were not only in poor taste but also unwarranted, the Committee recommended that the matter be allowed to rest.<sup>138</sup>

It is considered inconsistent with the dignity of the House to take any serious notice or action in the case of every defamatory statement which may technically constitute a breach of privilege or contempt of the House.

On 5 September 1974, the House adopted a motion that an article published in a Hindi weekly *Pratipaksha* under the title, *Sansad Ya*

*Choron Aur Dalalon Ka Adda* constituted a gross breach of privilege and contempt of the House and that the House would best consult its own dignity by taking no further action in the matter.<sup>139</sup>

In another case of casting reflections on the Deputy Chairman by criticizing his ruling and referring to expunged proceedings of Rajya Sabha in '*Jadeed Markaz*', a weekly newspaper, the Committee felt that the Editor of the newspaper crossed the boundaries of established standards of responsible journalism and used such words and sentences which not only transcended the limits of decency but also appeared to be attributing motives to Chair. The Committee further observed that it would be better if the House saves its own dignity by not giving undue importance to such irresponsible articles published with the sole intention of gaining cheap publicity.<sup>140</sup>

The above mentioned instances bring out some of the basic criteria which are usually applied to privilege cases arising out of reflections on the House, its members, etc. However, the decision on the question as to whether there has been a breach of privilege or contempt of the House depends upon facts and circumstances of each case. No two cases are identical and, therefore, the House or the Committee of Privileges has some freedom in appraising the facts in the case before it and coming to a conclusion. From the study of cases, however, it may be stated that when a complaint about reflection upon members of the House and so upon the House itself or upon the Chair or on any individual member in his capacity as such, is made, the House is generally guided by the following principles:

(1) Penal proceedings for breach of privilege should not be taken unless the attack on the House, its Presiding Officer or members is of a serious nature and is calculated to diminish the respect to the House and thus lessen its authority.

On 24 May 1990, the House adopted a resolution holding that a statement of a former Member of Parliament, Shri K.K. Tewari, as published in the newspapers that day brought the office of the Chairman of the Rajya Sabha to indignity and constituted contempt of the House. After seeking confirmation of the statement, the contemner was, as recommended in the resolution, summoned to the Bar of the House and reprimanded.<sup>141</sup>

(2) The law of parliamentary privilege should not be administered in a manner which would fetter or discourage the free expression of opinion or criticism.

In a case, the Committee of Privileges observed:

...every citizen has a right to offer fair criticism and/or comments on a matter which is of public concern and that it is not correct to

suggest that a Member of Parliament is not liable to be criticised in the performance of his duties as such member. Fair comments or criticism by a citizen... particularly a statement couched in proper language in which he puts forward his own version of certain facts, which may be contrary to something said on the floor of the House by a member or Minister, will not be objectionable. When, however, the citizen exceeds the limit of fair comment or criticism and indulges in imputations of improper motive to a Member of Parliament, he brings himself within the penal jurisdiction of the House.<sup>142</sup>

In the context of the writings in the Press, the Committee had in a case observed:

While the Committee is conscious that the Press should have the liberty to express its views without fear or favour on matters of public importance ...this liberty should not be abused by distorting facts and attributing motives.<sup>143</sup>

In another case, the Chairman disposed a privilege notice arising out of a signed item of the Executive Editor of the *Indian Express* carrying the heading, “*Petty little lies in Parliament*” observing, *inter alia*, that “Newspapers always look into things closely and critically...the newspapers are the eyes and ears of the public and if every citizen has a right to criticise the actions of others, so also the newspapers whose profession is to turn the light of publicity on the irregularities of public actions.”<sup>144</sup>

In another case later, the Chairman again observed:

It is only when a point is reached and the writing ceases to be journalistic vapouring and becomes an improper obstruction to the functioning of Parliament and its members by patent falsehood or otherwise, that action to the extent of punishment is called for. Then the House will never hesitate to do its duty towards itself.<sup>145</sup>

In yet another case of alleged defamation of member in the Star News Channel in its programme, ‘*Operation Chakravyuh*’, the Committee observed that if the public had an opportunity of seeing the unedited programme, the impression about the member would have been totally different from what had been created by the anchor in the telecast version. The Committee further observed that resorting to too much of coaxing and inducement, casting reflection on the integrity of other Members of Parliament and trying to entrap someone by fabricating false stories was not the way to expose wrongs in the parliamentary system. In view of the regrets expressed by the Chief Executive Officer of the channel and his acceptance of the Committee’s view that there were other ways also of showing the programme which would have sent a different message about the concerned member, the Committee recommended not to pursue the matter further.<sup>146</sup>

(3) The process of parliamentary investigation should not be used in a manner as would give importance to irresponsible statements. In such cases, the convention is to ignore them<sup>147</sup> or treat them beneath notice<sup>148</sup> or of trivial in nature.<sup>149</sup>

A number of members had given notices of breach of privilege against Shri Khushwant Singh, a member of the House in respect of his well-known column *With Malice Towards One and All* in the *Hindustan Times* dated 6 August 1983, on the ground that certain passages from the writings of an English author who had criticised politicians generally and in particular Members of Parliament for voting in their own favour to raise their own emoluments, were applied to members of our Parliament. The Chairman after witty analysis of the article observed that such writings were not worth serious notice.<sup>150</sup>

In another case, by a notice of breach of privilege, the Chairman's attention was invited to certain observations of Acharya Rajneesh reported in the *Nav Bharat Times* of 3 August 1986, that 'Members of Indian Parliament are mentally under-developed. If investigations are made they would be found to have mental age of 14 only.' The Chairman observed, "We generally treat such remarks beneath our notice...It is inconsistent with our dignity to attach any importance to the vituperative outbursts or irresponsible statements of a frustrated person. He closed the matter exhorting Godmen to leave the good men alone", and the newspapers not to give publicity to irresponsible statements against Members of Parliament as by doing so, they were not doing any service to the great institution of Parliament.<sup>151</sup>

(4) When the offender expresses regret and tenders unqualified apology and withdraws the offending writing or statement, the House generally does not proceed further in the matter, whether or not the House or the Committee has come to the decision that a breach of privilege or contempt of the House has been committed.<sup>152</sup>

In the *Thought case*,<sup>153</sup> the *Organiser case*,<sup>154</sup> and the *Ram Gopal Gupta's case*,<sup>155</sup> wherein the Committee of Privileges has recommended that no further action be taken by the House in view of the expression of regret and tendering of apology by the concerned persons, the House had adopted motions agreeing with the recommendations of the Committee.

In some cases without the matter being referred to the Committee, the complaints of breach of privilege were also taken up by the House with the concerned newspapers for allegedly casting reflections on members and explanations therefor by the concerned papers. The House then agreed to treat the matter closed in view of their expression of regret.<sup>156</sup>

### **Statements made in affidavits/writs**

The House may take cognizance of statements made in writ petitions or affidavits filed in courts if they attract breach of privilege or contempt of the House.

At the sitting of the Rajya Sabha held on 1 May 1963, a complaint of breach of privilege arising out of certain paragraphs contained in an affidavit filed by a businessman before the High Court of Judicature at Bombay was referred by the House to the Committee of Privileges. In the said affidavit, the defendants were, *inter alia*, stated to have managed to circulate a pamphlet amongst the Members of Parliament in the prearranged conspiracy to have speeches made and questions put to the Ministers, etc. against the businessman. The Committee came to the conclusion that the impugned paragraphs did not contain any direct or explicit insinuation against any member of the Rajya Sabha. The Committee, therefore, recommended that the matter should not be pursued further.<sup>157</sup> The House agreed with the report of the Committee.<sup>158</sup>

A member gave notice of a breach of privilege against a company and its director for certain statements contained in a writ petition filed by them in the High Court of Calcutta. It was contended by the member that in the said petition the petitioners had referred to certain portions of the proceedings of the Rajya Sabha in relation to a question and in doing so had attributed motives to the members who put the question and the Minister who answered it. The matter was referred by the Chairman to the Committee of Privileges to which another matter connected with the same proceeding of the House had also been referred. In view of the election of the person concerned to the Lok Sabha, the Committee did not consider it necessary to recommend any further action in the matter.<sup>159</sup>

### **Assault, etc. on members**

It is a breach of privilege and contempt of the House to obstruct or molest or assault a member during the execution of his duties, that is, while he is attending the House or when he is coming to, or going from, the House. The privilege, however, is not available when the member is not performing any parliamentary duty.

A complaint of breach of privilege was given notice of by some members arising from the alleged assault on a member of the House by some policemen in the residential quarters of the workers of a mill in West Bengal. The matter was also raised on the floor of the House. Subsequently, the Minister of State in the Ministry of Home Affairs stated in the House that the allegation had been denied by the

West Bengal Government. The member concerned characterised the denial as ‘utterly false’ and ‘a white lie’. The Chairman considered the matter and referred it to the Committee of Privileges. The Committee, on the evidence adduced before it, stated that the alleged incident took place when the concerned member was talking to workers in an area. It could not, therefore, be said that the member was performing any parliamentary duty at the time of the incident and as such, his arrest and the alleged assault on him did not in the circumstances of the case involve any breach of privilege or contempt of the House or the member.<sup>160</sup>

### **Intimidation of members**

Attempts by improper means to influence members in their parliamentary conduct may be considered contempts.<sup>161</sup>

The Committee of Privileges considered a complaint of a member that the Managing Director of a firm in Bombay had intimidated and discouraged him from his parliamentary duties as a Member of Parliament by making two telephone calls to him and writing a letter in connection with a matter involving the company raised by the member in the House through a Special Mention. In view of the disclaimer of any intention on the part of the person concerned to intimidate or discourage the member from performing his parliamentary duties and unconditional and unqualified apology, the Committee recommended that the matter be not pursued further.<sup>162</sup>

### **Power of the House to punish for breach of privilege or contempt**

The power of the House to punish for contempt or breach of privilege has been aptly described as the “keystone of parliamentary privilege” and is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege.<sup>163</sup> Without such a power the House “would sink into utter contempt and inefficiency.” This power has been judicially upheld in a number of court cases.<sup>164</sup>

The period for which the House can commit an offender to custody or prison for contempt is limited to the duration of the session of the House, *i.e.*, when the House is prorogued.<sup>165</sup>

### **Punishments for breach of privilege or contempt**

#### *Imprisonment and Reprimand*

In cases where the offence of breach of privilege or contempt of the House is of a serious or grave nature, the offenders may be punished by

imprisonment. There have been occasions when the Rajya Sabha has sentenced the offenders to imprisonment for gross contempt of the House for shouting slogans/throwing leaflets or other objectionable articles on the floor of the House (*infra*). In less serious cases (on two occasions) the contemners were summoned to the Bar of the House and reprimanded (*supra*).

#### *Imposition of fine*

While recommending imprisonment/reprimand to co-authors of a book, the Committee of Privileges considered that the type of contempt committed by them who were also the publishers, had the characteristic of an economic offence as well in as much as these persons by their unauthorised publication had also made pecuniary gains out of the same and as such fine would have been the most appropriate penalty that could be imposed upon them. However, after examining the law and precedents on the subject whether the House had the power to impose the penalty of fine for the breach of privilege and after taking competent opinion in the matter, the Committee doubted whether the House possessed any power to impose the penalty of fine.<sup>166</sup>

The Attorney-General whose opinion was informally sought by the Committee had observed, “If the House be of the opinion that the imposition of fines may operate as a better deterrent against erring persons who are members or strangers and that such power once belonged to the British House of Commons which has become obsolete by non-exercise and should be revived then the proper course would be to revive it by a regular legislation and not merely by a resolution passed by a single House.”<sup>167</sup>

In this connection it may also be interesting to note that the status of the House of Commons as a court of record has been doubted and the Commons has not imposed a fine since 1666. Select Committee in 1967 and 1977 and the Joint Committee on Parliamentary Privilege in 1999 have recommended legislation to give the Commons a statutory power to fine.<sup>168</sup>

#### *Prosecution of offenders*

In the above mentioned case of joint authors, the Committee also recommended that the Government should examine the matter with a view to initiating legal proceedings against the authors (and other publishers) for offences under the Copyright Act and the Indian Penal Code.<sup>169</sup>

#### *Punishing its own members*

The penal power of the House is exercised not only against an outsider but also against a member of the House. No authority or agency other than

the House itself, has the power to punish a member for his acts of omission and commission on the floor of the House. The jurisdiction of the House over its own members, its right to impose discipline within its walls, is absolute and exclusive.

The Rules of Procedure and Conduct of Business in the Rajya Sabha confer powers on the Chairman to preserve order and enforce his decisions in the House<sup>170</sup> and provide for withdrawal and suspension of members to enable the Chairman to enforce discipline on the members if they resort to disorderly behaviour, disregard the authority of the Chair and abuse the rules by wilfully obstructing the business of the House.<sup>171</sup>

If an unruly member does not withdraw from the House even after the direction of the Chair to this effect, the latter may name him and put forthwith a motion to suspend him. If the motion is adopted, the member concerned stands suspended.<sup>172</sup>

A member may be punished not only for his disorderly behaviour inside the House, but also for any conduct outside the House which tends to impair its dignity and authority. The power of the House to punish its own members for their conduct outside the House which is prejudicial to its dignity and of its members and is inconsistent with the standard of behaviour expected of them, was exemplified in the report of the Committee of Privileges appointed to investigate the conduct and activities of Shri Subramanian Swamy, a member of the Rajya Sabha in 1976. Shri Swamy was expelled from the House on a motion to this effect moved on 15 November 1976, and adopted unanimously on the same day (*supra*).

However, there were conflicting decisions on the power of the House to expel a member. The Punjab and Haryana High Court in 1977 declared that the Houses in India had no power of expulsion.<sup>173</sup>

The Madhya Pradesh High Court in 1966 declared that the Houses had such power.<sup>174</sup> Similarly, the Supreme Court in the case of *Raja Ram Pal V. Hon'ble Speaker, Lok Sabha and others* (2007) upheld the powers of Parliament to expel its members from the House. The Court observed that it has no jurisdiction to issue a writ, direction or order which affects the internal affairs of the House. Similarly the Presiding Officer of the House is also not subject to jurisdiction of any Court for failure to exercise his power to regulate the proceedings of the House.

### **Disturbances from Visitors' Gallery**

Disruption of the proceedings of the House by the visitors either by shouting slogans or by throwing leaflets, etc. are treated by the House as a grave offence and gross contempt of the House. In all such cases, since

the contempt is committed in the actual view of the House, the House generally proceeds at once to punish the offender for his act without hearing him. The punishment awarded in such cases is imprisonment of the person committing the contempt, for a specified period or a warning depending on the gravity of the offence.

On 21 December 1967, a person who shouted slogans and threw some leaflets into the Chamber from the Visitors' Gallery was, upon adoption of a motion, found guilty of committing a grave offence and a gross contempt and sentenced to simple imprisonment till the conclusion of the session and detained in Tihar Jail, Delhi. While the discussion on the motion was going on, the Leader of the House who had moved the motion pointed out that a similar incident had occurred. He accordingly, moved another motion in respect of the second incident. Both the motions were adopted by a division. The offenders were accordingly lodged in the jail upon warrants issued by the Chairman and addressed to the Superintendent of the jail. On a clarification sought by the Superintendent of the jail as to the date and time when the two persons should be released, the House, after discussion, passed a motion that the persons concerned should be released at 5.00 p.m. on the date of that motion, since the session was concluding on that day.<sup>175</sup>

In another incident two persons who had thrown leaflets from the Gallery into the Chamber were ordered by the House, by a motion, to be detained in the custody of the Watch and Ward Officer till the rising of the House that day.<sup>176</sup>

In yet another incident on 18 March 1982, fourteen persons shouted slogans from the Visitors' Gallery. They were immediately taken into custody by the Watch and Ward Staff. Members expressed their concern over the incident. The Leader of the House held consultations with leaders of other parties during the lunch-recess and after the House reassembled he moved a motion of contempt of the House committed by the persons to sentence them to simple imprisonment till 12 noon on 24 March 1982, to be detained in Tihar Jail, Delhi.<sup>177</sup>

On 23 March 1982, a lady visitor who shouted slogans from the Visitors' Gallery was let off with a warning (according to the report of the Watch and Ward Officer, she was in a state of mental distress).<sup>178</sup>

A visitor, a youngman, who tried to shout from the gallery was apprehended before he could cause disturbance. He was let off with a stern warning as suggested by the Deputy Chairman and agreed to by the House.<sup>179</sup>

On 21 November 1983, a visitor in the Visitors' Gallery shouted slogans and threw a *chappal* on the floor of the House. The House resolved to sentence him to simple imprisonment till the conclusion of the session (which concluded on 22 December 1983).<sup>180</sup>

### **Making a deliberately misleading statement in the House**

It is well-settled that making a misleading statement deliberately may be treated as breach of privilege and contempt of the House. According to May, the House may treat the making of a deliberately misleading statement as a contempt. In 1963, the House of Commons resolved that in making a personal statement which contained words which he later admitted not to be true, a former member had been guilty of a grave contempt.<sup>181</sup> The Committee of Privileges of the Rajya Sabha while examining an issue on this point elaborated the implications of the observations of May as follows:

In the opinion of the Committee it follows from the above observation that acts which mislead or tend to mislead must be done wilfully with the intention to mislead or deceive. Thus, the element of deliberateness is an essential ingredient implicit in the alleged offence of deliberately misleading the House. The Committee is aware that a number of statements which come up before the House are sometimes found not wholly true. There may be many statements made before the House which may in the end be found to be based on wrong information given to those who made them. Such statements will not, therefore, in the opinion of the Committee constitute a contempt if the persons had made them in the belief that the information contained in the statements was true. In this connection Kaul and Shakdher have also observed as follows:

If any statement is made on the floor of the House by a member or Minister which another member believes to be untrue, incomplete or incorrect, it does not constitute a breach of privilege. If an incorrect statement is made, there are other remedies by which the issue can be decided. In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading but it was made deliberately to mislead the House. A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly, (Kaul and Shakdher, 6<sup>th</sup> Edn., Vol. I, p. 305).

The Committee also cited various observations/rulings of the Speaker, Lok Sabha, made from time to time and opined that in the context of a breach of privilege arising out of misleading statements, deliberateness or intention to mislead was the crux of the offence.<sup>182</sup>

In disposing two cases of alleged misleading statements of Ministers regarding the reported arrest of a police officer and rape of a woman at Baghpat raised in the House, the Chairman elucidated the concept thus:

'Mislead' in this connection must mean only that the Ministers drew the House into error by falsely stating... which was contrary to fact. The test to apply is not a general one but in relation to the conduct of the maker of the statement.<sup>183</sup> The charge of misleading the House is only sustained on one of the following grounds namely:

- (i) that the Minister made a statement which he knew was false; or
- (ii) that he made a statement which he did not himself believe to be true; or
- (iii) that he made a statement without due care and attention and negligently asserting something as true which turned out to be false.<sup>184</sup>

In the first two situations, it is evident, there should be deliberate misleading by the Minister. In the third which is a borderline case, the maker of statement is utterly indifferent whether what he is saying is true or false. No person is expected to make a statement about a fact as to which he made no enquiry to ascertain its truth or falsehood. If he does so, he must pay the price for his negligence and indiscretion should it later turn out that what he asserted was false and thus misled the House. This proposition would not apply if a person after making due enquiry in proper quarters where he must make his inquiries and approaching those who were likely to know the facts makes a statement believing it to be true, he is then saved because he was himself misled by others from whom he enquired. The gravamen of the charge, therefore, is a deliberate misrepresentation of a fact knowing it to be false or not believing it to be true or being so indifferent to truth as not to care what he said is false or true.<sup>185</sup>

Some of the other important cases raised in the House on the ground of alleged misleading statements of Ministers and disposed by the Chairman may also be mentioned in this connection.

An allegation against a Minister for deliberately making misleading Statement in the House does not amount to breach of privilege if the Minister claims that he made the Statement in the House on the basis of information he had at that time.<sup>186</sup>

An Editorial in a newspaper repudiated the statement of the concerned Minister denying that certain information regarding the CBI was given by his Ministry. Two members gave notice of breach of privilege against the Minister. The Minister concerned then made a statement in the House, *inter alia*, maintaining that he made the impugned statement according to his knowledge at that time. The Chairman in his ruling stated that he was unable to hold that a case had been made out to

prove that the Minister made any statement in the House which he believed to be untrue on that day and he attempted to mislead the House. The consent for raising the question of breach of privilege was withheld.<sup>187</sup>

In another case arising out of an alleged incorrect reply to a question, the Chairman stated that the complaining member's misapprehension seemed to arise out of a possible misunderstanding of the position in respect of the original prosecution in a court of law and the subsequent adjudication proceedings.<sup>188</sup>

In yet another case of allegedly misleading the House, the Minister concerned laid on the Table a statement correcting his answer to a question and the Chairman did not consider that there was any intention on the part of the Minister to mislead the House.<sup>189</sup>

A privilege issue, arising out of allegedly misleading of the House by the Prime Minister in the matter of correspondence between the President and the Prime Minister, was raised in the House by members, which was disposed by the Chairman with reference to the provisions of the Constitution and precedents in UK and India. In the end he observed, "This Chair will only be fulfilling its sacred trust, if, in disregarding the heat of the passing moment, it adheres to the path charted for it by the framers of our Constitution."<sup>190</sup>

In another case regarding an alleged misleading statement by the Prime Minister in the matter of non-existence of a middleman in the Bofors deal, the Chairman, after calling for comments of the Prime Minister, gave a detailed ruling in the House and held that the Prime Minister's statement was neither incorrect nor deliberately made to mislead the House and hence the charge of breach of privilege against him was not sustainable.<sup>191</sup>

### Cases not amounting to breach of privilege

#### *Interception of members' mail*

On 26 August 1981, notices of breach of privilege were given by two members alleging that their postal mail was being intercepted, opened and censored which amounted to obstruction in the performance of their parliamentary duties. In his ruling (which was delivered by the Deputy Chairman) the Chairman referred to section 26(1) of the Indian Post Office Act, 1898, which authorised Government to intercept or detain postal articles on the occurrence of any public emergency or in the interest of public safety or tranquility and stated, *inter alia*, that "the section does not exempt any person or class of persons from the operation of the section. A claim to special privilege as individuals does not exist and it is, therefore,

being claimed *qua* members of this House or in other words of Parliament. It has been well-settled that Members of Parliament have no special status in the application of the laws of the land.” After referring to the rulings in the Lok Sabha and elsewhere, the Chairman ruled that there was no question of privilege involved in the matter. He, however, observed:

...any *mala fide* action or interference with the legitimate duties of honourable members of this House, if proved, will not have the protection of this ruling. I also repeat with respect the observations of the hon’ble Speaker, “I would permit myself one observation before concluding the subject and that is about communications sent by my office including the Lok Sabha Secretariat to members. I hope the concerned authorities realise that such communications would not attract the attention of censoring authorities.” The same will apply to this House *mutatis mutandis*.<sup>192</sup>

After a few years when again a similar question was raised by a member who complained that the Tamil Nadu Chief Secretary had passed orders to subject the concerned member’s postal articles to censorship, the Chairman reiterated his observations quoted above.<sup>193</sup>

#### *Attempt to defame members in a charge sheet*

Some members had given notices of breach of privilege pointing out that their names were mentioned in the charge sheet in the *Ram Swaroop espionage* case which had been given wide publicity thereby tarnishing their public image and deterring them from their parliamentary duties. It was also contended that their conduct as members was sought to be questioned in the charge sheet and there was a motive to defame them, etc. The Chairman, *inter alia*, observed that mere mention of names of members in the charge sheet establishing the *modus operandi* adopted by the accused for establishing contacts for furtherance of his dubious pursuits *per se* did not involve any *mala fides* on the part of the members concerned. Moreover, these members had neither been implicated as co-accused persons nor even cited as witnesses. The members concerned had already clarified their positions by personal explanations on the floor of the House and he, therefore, allowed the matter to rest there.<sup>194</sup>

#### *Party matters*

As per the established convention, the Chairman does not take cognizance of what transpires at party meetings. Some of the rulings when members have sought to refer to or raise matters of party meetings are given below:

A member referred to a news item that the Deputy Minister of Finance (Shrimati Tarkeshwari Sinha) against whom some charges were made

in the House during question hour the previous day, would raise the matter in the Congress Parliamentary Party. The member wanted the Minister to make a statement in the House. The Chairman ruled that what happened in the party was not their concern. If for public reasons, in the interests of the public, the Minister did not make a statement in the House and made a statement in the Parliamentary Party, the Chair would ask her for that.<sup>195</sup>

A member drew the Chairman's attention to a news report that two Congress members were taken to task and intimidated by the Prime Minister and other Ministers for their speeches attacking the Government in the House. This, the member felt, amounted to interference with the normal parliamentary functions of the members, and, therefore, constituted a breach of privilege. The Chairman observed, "I do not think that normal happenings in a party meeting can be made the subject matter of a question of breach of privilege."<sup>196</sup>

A member sought to raise a question of privilege on the reported proposal to take disciplinary action against another member by the Congress Party for certain observations made by that member in the House criticising the Deputy Prime Minister in connection with the debate on the affairs of the Birla Group of companies. The Chairman withheld the consent.<sup>197</sup>

A member sought to raise a question of privilege against the President and the General-Secretary of the Congress Party for intimidating another member in connection with the voting in the Presidential election after that member had publicly announced his intention to vote according to his conscience during the election. The Deputy Chairman disallowed the question of privilege.<sup>198</sup>

A member sought to raise a question of privilege regarding alleged harassment of another member by his party for asking a question in the House on a matter concerning the Ministry of Steel. The member concerned denied the allegation and the Deputy Chairman disallowed the question of privilege.<sup>199</sup>

When a member referred to elections in the Congress Parliamentary Party, the Chairman ruled, "It is a party matter; the party has its own autonomy and does what it likes. It does not come within our purview and we cannot do anything about it." The reference was that the Prime Minister had passed on a list of members to be elected to the Congress Parliamentary Party.<sup>200</sup>

#### *Non-fulfilment of assurances*

A member sought to raise a question of privilege that in the formation of the Company Board, the Minister of Finance had disregarded an assurance

given by him to the House. The Deputy Chairman, after going through the relevant proceedings and examining the matter refused permission to raise it in the House.<sup>201</sup>

#### *Banning procession before Parliament House*

On 14 November 1966, a member sought to raise a question of privilege regarding reported statement by the Lt. Governor of Delhi that processions would be banned within a radius of two miles of Parliament. The member contended that the Lt. Governor had no right to do so and thus had committed a breach of privilege of Parliament and its members. The Leader of the House clarified that the Lt. Governor was in-charge of law and order and what he said was on the question of dealing with law and order. He was not saying anything to impede Parliament from performing its functions or prevent anybody from approaching Parliament. Under Section 144 CrPC he was entitled to ban a procession. The Chairman disallowed the question of privilege.<sup>202</sup>

#### **Some typical privilege issues raised in Rajya Sabha**

##### *Allegedly laying of distorted minutes of the Committee on Public Undertakings*

Notices of breach of privileges were given against a member of the Rajya Sabha, who by virtue of being a member of the Committee on Public Undertakings had laid on the Table of the Rajya Sabha a copy of the minutes of the sittings of the Committee relating to its 47<sup>th</sup> Report. It was alleged that the minutes were not true to facts and did not faithfully reflect what transpired in the meeting of the Committee and that it amounted to a complete distortion and suppression of vital and critical information given to the Committee. A question of privilege was sought to be raised against the Chairman of the Committee on Public Undertakings as well. The Chairman thereupon stated that the member against whom notices of breach of privilege had been given had performed a purely ministerial function on behalf of the Committee in this House and that the minutes were authenticated by the Chairman of the Committee. The member, therefore, could not be held personally responsible for inaccuracies, if any, in the minutes. The Chairman withheld the permission for raising the question of privilege in the case.<sup>203</sup>

##### *Non-disclosure of information in the House*

On two occasions the question of non-disclosure of certain information by a Minister in the House or alleged withholding of information from the

House by a Minister during a discussion were raised. In one case, the Chair ruled that there was no *prima facie* case for breach of privilege and in the other case the matter was closed after the concerned Minister clarified the position.<sup>204</sup>

#### *Disrespect to members*

A point of privilege was raised in the Rajya Sabha regarding disrespect shown to members at a function in the Rashtrapati Bhawan. The Prime Minister, Shri Jawaharlal Nehru, explained the position and expressed sorry if any member was evicted. The Chairman closed the matter by saying that the Prime Minister had said that no disrespect or courtesy was ever intended to any Member of Parliament and they were expected to be treated with the utmost courtesy and respect.<sup>205</sup>

On another occasion, objection was taken to a Minister leaving the House in the midst of discussion without Chair's permission. The Leader of the House explained the circumstances but apologised and expressed regret on behalf of the Government. The matter was closed.<sup>206</sup>

#### *Exclusion of members of Rajya Sabha from certain committees of a State Government*

On 9 August 1983, several members raised in the House a matter regarding exclusion of members of the Rajya Sabha from certain committees of the Government of Orissa. After the Government of Orissa clarified the position and took a decision to include the nominee of each member of the Rajya Sabha as a member of a committee from which earlier members were excluded by reason of absence of territorial constituency of a Rajya Sabha member, the Chairman stated that the House should not occupy itself any further with the matter.<sup>207</sup>

#### *Breach of privilege by a civic body*

For the first time in the Rajya Sabha a complaint of breach of privilege was raised against a civic body (Pune Municipal Corporation) which had adopted an adjournment motion condemning an alleged statement made by a member of the Rajya Sabha during a Calling Attention on Pune riots. Copies of the speeches of the Councillors made on that adjournment were called and the Chairman, after being satisfied that a *prima facie* case of breach of privilege existed, gave his consent to the member for raising the question. However, while doing so, the member stated that he would be satisfied if the Chairman made certain observation. The Leader of the House also agreed. Thereupon, the Chairman, *inter alia*, observed that it

was expected of the Municipal Corporation to take proper care (ascertaining the facts) before proceeding to criticise the House or any of its members. The Chairman, however, stated that the House should not be troubled to take action and he was sending the proceedings of both the days to the Corporation so that it would make suitable amends. The House agreed with the Chairman's conclusion.<sup>208</sup>

#### *Reflections on the President*

On 27 April 1987, some members raised in the House a matter regarding reflections cast on the then President of India, Giani Zail Singh, as reported in a newspaper of the previous day. The Chairman remitted the matter to the Committee of Privileges for examination of certain points. The Committee, however, decided to treat the matter as closed and allowed it to rest there.<sup>209</sup>

On an earlier occasion, the Committee of Privileges examined certain writings in a weekly, which had also denigrated the person of the President. The Committee, however, did not consider in detail whether reflections on the President amounted to reflections on Parliament and as such breach of its privilege.<sup>210</sup>

#### **Breach of propriety**

##### *Increase of postal tariff on the eve of the Budget*

On 19 February 1982, when the Deputy Minister of Communications sought to lay certain Notifications regarding increase in postal tariff on the Table of the House, points were raised that the increase amounted to bypassing Parliament and undermining its authority. The Chairman, *inter alia*, ruled that Government had the power and the authority under the Indian Telegraph Act to raise the tariff. No question of legality was involved; it was a question of propriety. He, therefore, observed,... "propriety demands that if there is an increase in the rates of levies of this type, it should be done not on the eve of the Budget session, but well in advance, so that the people will know that this is not a part of the Budget being shoved in."<sup>211</sup>

##### *Exempting certain items from customs duty on the eve of the Budget*

On 25 February 1986, when a set of forty-two Notifications under the Customs Act, 1962, was sought to be laid on the Table of the Rajya Sabha, members raised a matter regarding propriety of exempting various items from payment of customs duty just on the eve of the Budget. The Finance Minister contended that some of the Notifications were merely extension

and/or continuation of exemptions or duty rates which would be expiring if no such Notifications were made. If the contention was factually correct, the Chairman in his ruling observed, there would be no breach of propriety in such cases. If, on the other hand, these Notifications had revenue implications, such as increasing or decreasing the levy, such Notifications on the eve of the Budget would offend the canons of parliamentary propriety. The Chairman accordingly ruled:

- (a) notifications issued in pursuance of the Customs Act were legal;
- (b) notifications issued when Parliament was not in session and placed on the Table of the House within seven days of the session in accordance with the recommendations of the Committee on Subordinate Legislation were both valid and proper;
- (c) notifications of formal nature extending the life of an existing duty rate and which did not have a fresh or new revenue implications were valid and proper; and
- (d) notifications with revenue implications such as increasing or decreasing the duty structure on the eve of the budget were contrary to parliamentary propriety.

As regards the merits or contents of the Notifications, he stated that they could be gone into by the Public Accounts Committee as was done in 1981.<sup>212</sup>

Accordingly, a reference was made to the Public Accounts Committee. The Chairman apprised the House of the observations of the Public Accounts Committee and invited particular attention to its concluding observations to the effect that post-notification approval by Parliament was no substitute for a prior debate and discussion of taxation proposals, specially when they departed from the approved budget. In the end, the Chairman observed, "I do hope that Government will take due note of this and endeavour to ensure that resort to issuing Notifications having revenue implications will be minimal."<sup>213</sup>

#### *Issue of Notifications with revenue implications on the eve of the Budget*

Again on 25 February 1987, when seventeen Notifications relating to customs and excise duties were being laid on the Table, the question of propriety of issuing them on the eve of the Budget was raised in view of the ruling of the Chairman quoted above (on the previous day sixty-one Notifications of similar nature were also laid on the Table). The Chairman directed that the Committee on Papers Laid on the Table of the Rajya Sabha should examine the factual position of the Notifications (seventy-eight in all).<sup>214</sup> The Committee accordingly considered the matter and

submitted its report to the Chairman on 9 October 1987. The Committee upheld the propriety of issuance of sixty Notifications. As regards other eighteen Notifications, the Committee found that there did not exist circumstances warranting their issue and those Notifications could, therefore, have been held back until Parliament had an opportunity to consider them. The Committee also made some other general suggestions in this regard.<sup>215</sup> The Chairman in his ruling given on 28 March 1988, reiterated the observations of the Public Accounts Committee quoted above and stated that Government would take due notice of the suggestions made by the Committee on Papers Laid on the Table and ensure that in the matter of issuing Notifications it would adhere to the criteria laid down by the previous Chairman in his rulings of 4 March and 11 November 1986.<sup>216</sup>

*Policy/important statements/announcements outside the House when Parliament is in session*

Many a time, questions of contempt of the House are raised by members for making important announcements/policy statements by the Government outside the House while Parliament is in session. In all such cases, it has generally been held that “no privilege of the House is involved if statements on matters of public interest are not made first in the House. However, it is a breach of propriety for a Minister to make a statement outside the House while it is in session.” It has also been held that policy statements should first be made on the floor of the House when the House is in session before releasing them to the press or to the public but Ministers cannot be prohibited from making the statements outside the House if such statements are not contrary to the declared policy of the Government.

When the Minister rose to make a statement regarding the manufacture of cars in the public sector, a member interrupted him saying that the statement had already appeared in the newspapers and thus a breach of privilege of the House had been committed. After some discussion, the Deputy Chairman disallowing the question of privilege *inter alia* observed:

So far as parliamentary practice is concerned if any information regarding important policy matters or policy decisions appears in the press, it is decided that this does not amount to any breach of privilege of the House...it is a sort of highly improper thing that such a thing the press should issue or such information should be leaked out to the press before it is given to the House, it may amount to a highly improper thing...Therefore, if any information has leaked out to the press before coming to the House, according to the procedure, of course, it can never be a breach of privilege but it is highly improper thing. It may amount to breach of courtesy but not breach of privilege.<sup>217</sup>

In a similar case regarding the Minister's statement on the manufacture of scooters in the country, the Minister stated that the statement was merely about implementation of the decision which was taken in October 1969 and known to the Press and to everybody in the country. The Vice-Chairman upheld the Minister's contention and stated that though no breach of privilege or contempt of the House was involved, it would be proper if further vigilance was kept so that such things did not recur and the Government was more careful in such matters.<sup>218</sup>

In a case regarding announcement about the constitution of the Press Commission outside the House, while Parliament was in session, the Chairman ruled:

...If there is any important announcement to be made by the Government, they should make it in the House when the House is in session as early as possible. I hope this will be followed in future...if there is a policy statement, the Minister should not make it outside the House.<sup>219</sup>

In another case the privilege issue related to the making of certain policy announcements outside the House on a Saturday when the House was in session. The Minister concerned contended that those announcements did not amount to policy statements; they were administrative decisions. While referring to the established practice that policy statements should first be made on the floor of the House when it was in session, before releasing them to the Press or the public, the Chairman stated that Ministers could not be prohibited from making statements outside the House if such statements were not contrary to the declared policy of the Government. The question at issue, therefore, was whether the announcements made by the Minister either amounted to an announcement of a new policy, change in policy or contrary to declared policy. Considered in this context, the Chairman held that there had been no breach of accepted proprieties involved in the Minister's announcements. As regards the contention of the Minister, however, that these were administrative decisions, and that, therefore, no breach of propriety was involved in the case, the Chairman observed. "Such a broad proposition is not warranted by the earlier rulings in Parliament. It is conceivable that some administrative decisions may involve either a change or infringement of an existing policy and may have to be made first in the House." He, however, did not rule on that point, having already held that the impugned announcements of the Minister were not statements of policy.<sup>220</sup>

### **Procedure for dealing with questions of privilege**

#### *Prior consent of the Chairman*

A member may, with the consent of the Chairman, raise a question involving a breach of privilege either of a member or of the House or of

a Committee thereof.<sup>221</sup> A member who wishes to raise a question of privilege is required to give notice in writing to the Secretary-General, before the commencement of the sitting on the day the question is proposed to be raised.<sup>222</sup> If the question of privilege is based on a document, the notice must be accompanied by that document.<sup>223</sup> On receipt of the notice, the matter is considered by the Chairman who may either give or withhold his consent to the raising of the question of privilege in the House.

A matter of privilege, which is being considered by the Chairman, cannot be raised in the House.

On 25 March 1992, Shri Pramod Mahajan rose to speak on a matter of privilege for which notice was submitted to the Chairman. The Deputy Chairman did not permit the member to raise the issue on the ground that the matter was being considered by the Chairman and Rules did not permit any member to raise a matter of privilege in the House without the consent of the Chairman.<sup>224</sup>

The question whether a matter complained of is actually a breach of privilege or contempt of the House is entirely for the House to decide. The Chairman in giving his consent to the raising of a matter in the House as a question of privilege considers only whether the matter is fit for further inquiry and whether it should be brought before the House. The right to raise a question of privilege is governed by two conditions, namely, (i) the question shall be restricted to a specific matter of recent occurrence and (ii) the matter requires the intervention of the House.<sup>225</sup> Before deciding whether the matter proposed to be raised as a question of privilege requires the intervention of the House and whether consent to raise the same in the House be given, the Chairman may give an opportunity to the person incriminated to explain his case to the Chairman. The Chairman may, if he thinks fit, also hear views of members before deciding upon the admissibility of the question of privilege.<sup>226</sup>

Also the Chairman may seek information on the notice from the Minister concerned to satisfy himself before taking a decision on the admissibility of a notice of privilege.<sup>227</sup>

However, the Chair is not required to give reasons for rejecting a privilege notice.

On 1 March 1982, Shri Shiva Chandra Jha raised a point of order under rule 190 and wanted to know the reasons for disallowing his privilege motion against Shri M.S. Gujral, Chairman, Railway Board, in the House. In this regard the Deputy Chairman ruled that ‘the Chairman gives his consent or does not give his consent and, therefore, it is always said

that consent is withdrawn under rule 187. So far as rule 190 is considered it is quite clear under the proviso that it is not obligatory on the Chairman to do so in the House.<sup>228</sup>

If a newspaper is involved either on the score of alleged distortion or misrepresentation of proceedings or for comments casting reflection on the House or its members, the Chairman may, and generally does, in the first instance give an opportunity to the Editor of the newspaper to present his case before giving the consent to raise the privilege question in the House. The Chairman normally withdraws his consent to the raising of the question of privilege after the concerned Editor or press correspondent has expressed regret or published a correction (*supra*).

As already stated, members have raised questions of privilege on matters affecting them personally at the hands of the police, *i.e.*, for alleged abuses, ill-treatment or obstruction by the police authorities. In such cases, the Chairman may, if he is satisfied, permit the members to make a statement in the House by way of special mention,<sup>229</sup> or personal explanation.<sup>230</sup> Thereafter, an opportunity may be given to the concerned Minister to get the version of facts and apprise the Chairman or the House.<sup>231</sup> In the light of facts, the matter may be decided by the Chairman or the House.<sup>232</sup>

#### *Leave of the House*

After the Chairman has given consent and held that the matter proposed to be discussed is in order, he calls upon the member concerned to ask for leave of the House to raise the question of privilege. The concerned member is permitted to make a short statement relevant to the issue. Leave to raise a question of privilege is asked for after the Question Hour is over and before the list of business is taken up.<sup>233</sup> However, the Chairman may, if he is satisfied about the urgency of the matter, allow a question of privilege to be raised at any time during the course of a sitting after the disposal of questions.<sup>234</sup>

A member was permitted to raise a point of privilege arising out of an answer to a supplementary question asked that morning (Starred Question No. 183 regarding trade relations between India and European Economic Community (EEC) for half-an-hour (from 2.56 p.m. to 3.26 p.m.). However, the Deputy Chairman did not treat it as a privilege motion.<sup>235</sup>

If the Chairman is of the opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of question of privilege and state that he withdraws consent.<sup>236</sup>

After the matter is raised with the consent of the Chairman, the Chairman asks whether the member has leave of the House to raise the question. If no one dissents, the leave is presumed to be granted.<sup>237</sup> If objection to leave being granted is taken, the Chairman requests those members who are in favour of leave being granted to rise in their places and if not less than twenty-five members rise accordingly, the Chairman intimates that leave is granted,<sup>238</sup> otherwise he informs the member that he has not the leave of the House.<sup>239</sup>

#### *Consideration of the question*

After leave is granted as above, the House may consider the question and come to a decision,<sup>240</sup> or the matter may be referred by the House to the Committee of Privileges on a motion made either by the member who has raised the question of privilege or by any other member.<sup>241</sup> The usual practice is to refer the matter to the Committee of Privileges, and the House defers its judgment until the report of the Committee has been presented. On occasions without a formal leave of the House or a motion, the House has agreed that the matter be referred to the Committee of Privileges.<sup>242</sup>

#### *Complaints against members*

When a complaint of an alleged breach of privilege or contempt of the House is made by a member against another member, a notice is given to the member complained against before hand and the member concerned is given an opportunity to place before the Chairman or the House such facts as the member may have on the question.

On 5 June 1967, a member sought to raise a question of privilege against another member for making defamatory statements against a member of the Lok Sabha. Since the member complained against was not present in the House, the Chairman did not allow the complaining member to raise it as a question of privilege observing that he would like to have views of the member complained against.<sup>243</sup>

On 23 December 1980, some members gave notice of a breach of privilege against another member for making certain allegations against a Minister in the House. The Chairman referred the matter to the Committee of Privileges under rule 203. However, next day, he stayed the consideration of the matter by the Committee so that he could give an opportunity to the concerned member to offer her comments and decide on the future course of action. Only after considering the member's comments, the Chairman directed the Committee to proceed with the consideration of the question.<sup>244</sup>

Where a complaint was raised against a member for having cast aspersions on another member in a public statement as appeared in newspapers, the Chairman allowed the member on whom aspersions were cast to make a personal explanation to clarify his position.<sup>245</sup>

The Committee of Privileges in its fifty-fourth report presented to the House on 7 July 2009 considered two matters pertaining to complaints against members (i) complaint against a particular member for allegedly preventing/interrupting another member during his speech in the House, and (ii) complaint made by some members regarding their inability to raise questions due to continuous interruptions caused by some members. The Committee observed that though such incidents were not uncommon in the Houses of Parliament, they brought down the image of Parliament and its members in the eyes of those very people who sent them to the highest institution of democracy. The Committee was of the view that every member has the right to express his views in the House, but certainly that does not give him the right to prevent other members, who have the similar right to speak when called by the Chair. The Committee was of the view that while agitating over a particular matter the member should not violate the rules of the House and that there were ways to express dissent without violating the rules. The Committee urged the members to be more circumspect and abide by the directions of the Chair to avoid recurrence of such incidents.<sup>246</sup>

#### *Complaints against members or officers of the other House*

In a landmark case, a question of privilege arising out of a speech made outside Parliament by Shri N.C. Chatterjee, a member of the Lok Sabha was sought to be raised in the Rajya Sabha on 11 May 1954, for describing Parliament as ‘wonderful Parliament’ and Upper House as a ‘pack of urchins’. The members of the Rajya Sabha took serious exception to the statement made regarding the Rajya Sabha and its members.<sup>247</sup> The member in question also raised a point of privilege in the Lok Sabha next day on the ground that he was served with a notice by the Secretary, Rajya Sabha, seeking certain explanation/clarification regarding the impugned statement. Thus he said it was usurpation of the rights and privileges of the Lok Sabha by the other House.<sup>248</sup>

After considering the matter in detail it was decided by the Chairman and the Speaker that the Privileges Committees of both the Houses should evolve an agreed common procedure for such matters when any complaint regarding breach of privilege is made against a member of either House of Parliament. The Committees of Privileges of the Lok Sabha and the Rajya Sabha in their Joint Report presented to both the Houses on 23 August 1954, recommended the following procedure to be followed in case where

a member, officer or servant of one House is alleged to have committed breach of privilege or contempt of the other House:

- (a) When a question of breach of privilege is raised in any House in which a member, officer or servant of the other House is involved, the Presiding Officer shall refer the case to the Presiding Officer of the other House, unless on hearing the member who raises the question or perusing any document where the complaint is based on a document, he is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he may disallow the motion for breach of privilege.
- (b) Upon the case being so referred, the Presiding Officer of the other House shall deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof.
- (c) The Presiding Officer shall thereafter communicate to the Presiding Officer of the House where the question of privilege was originally raised a report about the enquiry, if any, and the action taken on the reference.
- (d) It is the intention of the Committees that if the offending member, officer or servant tenders an apology to the Presiding Officer of the House in which the question of privilege is raised or the Presiding Officer of the other House to which the reference is made, no further action in the matter may be taken after such apology is tendered.<sup>249</sup>

On 2 December 1954, the Chairman of the Joint Sitting of the Committees of Privileges (Dr. Kailash Nath Katju) moved in the Lok Sabha and on 6 December 1954, the Leader of the House (Shri C.C. Biswas) moved in the Rajya Sabha motions for approval of the recommendations contained in the Report. The motions were adopted.<sup>250</sup> Subsequently, the Chairman received a letter from the Speaker, Lok Sabha, enclosing a statement by the concerned member in which he stated that he did not intend any disrespect to the Rajya Sabha or the members thereof and if a wrong impression had been created he was sorry for that. The Chairman thought that in view of the statement, they might treat the matter as closed.<sup>251</sup>

On 21 May 1979, the Chairman informed the House that he had received a communication from the Speaker, Lok Sabha, about a question of privilege raised in the Lok Sabha regarding an alleged misleading statement made in the Lok Sabha on 19 January 1976, by Shri Pranab Kumar Mukherjee, a member of the Rajya Sabha when he was functioning as a Minister, on the subject of voluntary disclosure of income and wealth. After considering the matter in the light of the comments received from Shri Mukherjee, the Chairman referred it to

the Committee of Privileges. The Committee felt that Shri Mukherjee had not committed any breach of privilege by making the impugned statement and reported accordingly. No further action was taken by the Rajya Sabha in the matter. A copy of the report of the Committee was forwarded to the Speaker, Lok Sabha, by the Chairman. No further action was taken in the matter by the Speaker, Lok Sabha, also.<sup>252</sup>

On 24 August 1987, the Deputy Chairman informed the House that she had received a communication from the Speaker, Lok Sabha, about a privilege notice given by Shri Somnath Chatterjee, a member of the Lok Sabha, regarding an allegedly misleading statement made by Shri Arun Singh, a member of the Rajya Sabha when he was functioning as a Minister, on the subject of payment of commission in a defence deal. After considering the matter in the light of Shri Arun Singh's explanation in the context of the debates and his statements in both the Houses of Parliament, the Chairman ruled that Shri Singh had not made any statement which could be construed as deliberately misleading the Lok Sabha and committing a breach of privilege of that House. He, therefore, felt that the matter need not be pursued further.<sup>253</sup> A copy of the Chairman's ruling together with Shri Arun Singh's comments was forwarded to the Speaker, Lok Sabha, by the Chairman. No further action was taken by the Speaker, Lok Sabha.<sup>254</sup>

On 11 September 1992, the Chairman received a communication from the Speaker, Lok Sabha, along with a copy of a notice given by Shri George Fernandes, member of the Lok Sabha, against Shri Rameshwar Thakur, Minister of State in the Ministry of Finance for allegedly attempting to influence some members of the Joint Parliamentary Committee on Securities Scam with a view to obstructing the work of the Committee. After calling for comments of Shri Thakur, the Chairman referred the matter to the Committee of Privileges. The Committee considered it and concluded that it did not involve any breach of privilege. No further action was taken by the House in the matter.<sup>255</sup>

On 7 July 2008, the Chairman received a communication from the Speaker, Lok Sabha enclosed therewith copies of separate notices, one given by Shri Devendra Prasad Yadav, member, Lok Sabha (which was also signed by 17 other members, Lok Sabha) against Shri Balasaheb Thackeray, leader of the Shiv Sena Party, for allegedly lowering the dignity of the Lok Sabha and committing a breach of privilege by criticizing in his newspaper 'Saamana' the members who discussed in Parliament the issue of violence against North Indians in Maharashtra. The other notice was given by Shri Ram Kripal Yadav, member, Lok Sabha on the same subject. However, on careful perusal of the newspaper in question it was found that the impugned comments criticizing the members were made in an article/editorial written by Shri Sanjay Raut, Executive Editor 'Saamana' and a member of

Rajya Sabha. The Chairman referred the matter to the Committee of Privileges. The Committee considered the matter and in view of the expression of regret by Shri Raut during his oral submission as well as in writing, the Committee opined that the matter need not be pursued further and recommended no action.<sup>256</sup> The Speaker, Lok Sabha was informed accordingly.

No case of a breach of privilege or contempt of the House can be founded on a speech made by a member in the other House or in any State Legislature in India, because the proceedings of each House of Parliament and all Legislatures are matters of privilege and no action can be taken in one House for anything that is said in another House.

At a meeting of the Congress Parliamentary Party, a member (of the Rajya Sabha), had made some allegations against two Ministers. On 20 June 1967, the Prime Minister made a statement in the Lok Sabha that the allegations had not been substantiated on the basis of the material furnished by the member. Next day a question of privilege was raised in the Lok Sabha, that since the allegations against two Ministers, who were members of that House, had not been substantiated, the entire House had been brought into disrepute. A motion was moved that the question of privilege be referred to the Chairman, Rajya Sabha, for action in accordance with the procedure evolved by the Joint Sittings of the Privileges Committees of both Houses. After a lengthy debate the motion was put to vote and negatived.<sup>257</sup> In the Rajya Sabha, a member sought to raise a question of privilege on the ground that another member of the Rajya Sabha was made the subject matter of privilege motion and accused in the Lok Sabha for some charges levelled by him against the two Ministers. The Chairman closed the discussion with the following observations:

...No action was taken by the other House against our member. If action had been taken, we would have taken notice. We should not discuss what has happened in the Lok Sabha. The Speaker stated that he could have taken action himself but he was in doubt and he thought it better to leave the matter to the judgment of the House whether the complaint should be referred to the Chairman of the Rajya Sabha for necessary action.<sup>258</sup>

On 30 March 1970, during the course of a debate, a member made certain allegations against a member of the Lok Sabha. The matter was raised in the Lok Sabha and after some discussion there, the Speaker observed that he would take up the matter with the Chairman of the Rajya Sabha. The Speaker, accordingly addressed a letter to the Chairman observing, *inter alia*, that it was not desirable for a member of one House to make allegations or cast reflections on the floor of the House on the members of the other House. The Chairman, in reply,

agreed with the observations of the Speaker and informed him that the Deputy Chairman had already disapproved of what the concerned member had said in the Rajya Sabha. The matter was thereafter closed.<sup>259</sup>

In another case, on 2 September 1970, Shri Bhupesh Gupta, member of the Rajya Sabha, made the following remarks during the course of a debate in the Rajya Sabha:

Last night several MPs were taken to the houses of some Princes and Maharajas and I know in one case where a member of a certain party was taken to the residence of one Maharaja, the Rajmata offered him bribe. I am ready to present him to you. I can ask him to come and tell you...

On 3 September 1970, Shri Ram Charan, member of the Lok Sabha sought to raise a question of privilege against Shri Gupta, on the ground that in his above remarks made in the Rajya Sabha, as reported in the *Nav Bharat Times* of 3 September 1970, Shri Gupta had alleged that four *Adivasi* and other MPs had voted in the Lok Sabha against the Constitution (Twenty-fourth Amendment) Bill, 1970, because they had been bribed. On the matter being referred by the Speaker to the Chairman, the latter, in reply to the Speaker's communication, observed:

The allegations by Shri Bhupesh Gupta to which Shri Ram Charan, MP apparently refers, did not relate to any particular member of either the Lok Sabha or the Rajya Sabha... You would thus see that Shri Bhupesh Gupta did not refer personally to any member of either House. I have always held the view that member of one House should not make allegations or cast reflections on the floor of the House, or outside, on the members of the other House. In the Rajya Sabha, the Chair has invariably deprecated such conduct on the part of any member.<sup>260</sup>

So far as contempts committed by a Member of Parliament against a State Legislature or by a member of a State Legislature against a Member of Parliament or against a member of Legislature of another State is concerned, a convention on the lines developed in Parliament has been evolved and similar procedure is followed when a complaint is made against a Member of Parliament by a member of State Legislature or against a member of a State Legislature by Member of Parliament. When such a reference is received by the Chairman from a State Legislature, he examines the matter, calls for the comments from the concerned member of the House, if necessary, and decides the case accordingly. The Chairman's decision is then conveyed to the Speaker/Secretary of the State Legislature from whom the reference was received.<sup>261</sup>

### **One House not to comment upon the proceedings of the other House**

Since each House of Parliament has the exclusive jurisdiction over its own proceedings, no House can sit over judgment on the proceedings of the other House or of a State Legislature. Similarly, State Legislatures also cannot comment on the proceedings of either House of Parliament. Rules of Procedure and Conduct of Business in the Rajya Sabha specifically forbids a member to use offensive expressions about the conduct or proceedings of the Lok Sabha or any State Legislature while speaking on the floor of the House.<sup>262</sup> Members are expected to exercise restraint while expressing opinion or making any comment on proceedings of the other House. Such references or comments on the proceedings of the other Houses have been invariably ruled to be out of order and expunged from the proceedings of the House. In some of the cases involving the proceedings of the State Legislatures, however, the Chairman, has permitted discussion on constitutional issues without going into the merits of the case.

On an occasion the issue of disqualification of some members of Tamil Nadu Legislative Assembly on the grounds of defection as a result of the Speaker's ruling, was permitted to be raised. At the end of the debate, the Chairman observed:

The Presiding Officers of State Legislatures are independent authorities. They are not subject to the appellate jurisdiction of the Presiding Officers of Parliament. In fact, they have equal powers like any of us. However, why I allowed this discussion to be raised is that suggestions be made by the hon'ble members as to what should be done if similar cases arise in future and since this is the first time that a case of this kind has arisen, some suggestions have been made... But this House does not express any opinion on the merits or demerits of the action taken by the Speaker of the Tamil Nadu Assembly and the discussion is confined purely to the suggestions to meet situations like this.<sup>263</sup>

Similarly, on another occasion a special mention on "situation arising out of failure to discharge constitutional responsibility under article 178 to elect Speakers of Legislative Assemblies of Uttar Pradesh and Rajasthan" was admitted by the Chairman, Rajya Sabha. But objection was raised by some members on the ground that the House did not have the jurisdiction over matters involving the State Legislatures. The Chairman, while defending admission of the special mention, clarified that in the election of a Speaker, two entities are involved, they are the members as a whole on the one hand and the Governor on the other... He drew the attention of the House to article 355 which provides that it shall be the duty of the Union to ensure that the Government of every State is carried on in accordance with the

provisions of the Constitution. The Chairman explained that the phrase “the Government of every State”, included among others, the Governor of the State concerned, and if he was not able to perform duties assigned to him, the Union Government was duty bound to ensure that the Governor performed his duties. Accordingly, the Rajya Sabha *ipso facto* had competence to discuss this fact. The Chairman, however, clarified that the Rajya Sabha could not reflect upon the Assembly as such.<sup>264</sup>

The practice in respect of proceedings of the House, is also followed in respect of the committees. One House is not to raise a question of breach of privilege related to a matter affecting the committee of the other House.

In July 1982, some members of Rajya Sabha gave notices of breach of privilege against the Prime Minister and her office and some Ministers in connection to an issue which was the subject matter of the Committee of Public Undertakings. The Chairman withheld his consent to the raising of the matter as a question of privilege. He ruled:

The notices purport to raise a question of privilege under rule 187 of our Rules which provides that subject to the provisions of these Rules, a member may with the consent of the Chairman raise a question involving a breach of privilege either of a member or of the Council or a committee thereof. Stated briefly a question of breach of privilege has to be restricted only to a matter affecting the committee of our House. Now the Committee on Public Undertakings is a committee set up under rule 312A of the Rules of Procedure and Conduct of Business in Lok Sabha. It functions under the direction and control of the Speaker, Lok Sabha. Although seven members of our House are nominated to associate with the Committee and have equal rights with the members of the Lok Sabha to vote and take part in the proceedings of that Committee, the fact remains that this Committee is essentially and primarily a Committee of Lok Sabha. Under rule 187 which has been referred to earlier, a question of breach of privilege can only arise in respect of our committee. Rajya Sabha does not have any jurisdiction in respect of the committee of Lok Sabha in the matter of its privileges. The appropriate forum to raise a matter of breach of privilege on ground of withholding information or any file from the committee or casting any reflection thereon can only be Lok Sabha.<sup>265</sup>

#### **Reference of questions of privilege to Committee of Privileges by Chairman**

The Chairman is empowered to refer *suo motu* any question of privilege or contempt of the House to the Committee of Privileges for examination, investigation and report.<sup>266</sup> There have been a number of cases when the

Chairman has referred the matter directly to the Committee without first bringing the same before the House.<sup>267</sup> There are cases also when the Chairman has permitted the matter to be raised in the House by a member and then announced that he was referring it to the Committee in exercise of his discretionary power.<sup>268</sup> As per the established practice whenever the Chairman refers a matter to the Committee of Privileges in exercise of his discretionary power members are informed of the same through a paragraph in the Bulletin.<sup>269</sup> The reports of the Committee in such cases are also presented to the House in the same way as when the matters are referred to the Committee by the House.

Usually, the Chairman refers a matter to the Committee of Privileges under rule 203 for “examination, investigation and report”. However, on occasions the Chairman has referred the matters to the Committee, “to report to him”,<sup>270</sup> “for view of the Committee”;<sup>271</sup> or for “laying down an appropriate procedure” in a case where a member of the Rajya Sabha was requested to appear to tender evidence before the other House or a House of a State Legislature or a committee thereof.<sup>272</sup>

There have been a couple of occasions when the Chairman himself has inquired into a breach of privilege matter instead of referring it to the Committee and apprised the House of the result of his inquiry and closed the matter.

On 5 June 1967, a member sought to raise a question of privilege against another member for making a defamatory statement against a member of the Lok Sabha. The member complained against made a statement on the next day, without dropping the allegation or expressing regret as advised by the Chairman. Thereupon, the Chairman asked the member to substantiate the allegations made. The Chairman made the inquiry and the concerned member filed a written statement. On the basis of the statement, the Chairman closed the case by making an announcement in the House on 19 June 1967, observing, *inter alia*, “...members who are not in a position to substantiate charges...should not make such statements. Allegations and counter-allegations...by members detract from the dignity of Parliament.” He also quoted Erskine May who had stated “Good temper and moderation are the characteristics of parliamentary language. Parliamentary language is never more desirable than when a Member is canvassing the opinions and conduct of his opponents in debate.”<sup>273</sup>

Starred Question No. 87 regarding the award of highway contract in Jordan to a private company and the Metals and Minerals Trading Corporation (MMTC) was answered in the Rajya Sabha on 3 March 1987. The thrust of the interpellations was that the concerned Ministry had favoured a private company at the cost of a public sector

undertaking in awarding of the contract. The Minister concerned and some members desired that the matter be looked into by the Chairman. The Chairman accordingly did, by not only calling records but also giving a personal hearing to the member who had made allegation of favouritism and the Chairman of the concerned Public Undertaking, and gave a ruling in the matter.<sup>274</sup>

### **Procedure for calling a member of Rajya Sabha for appearing as witness before a Committee of State Legislature**

The Chairman received a letter from the Chairman, Maharashtra Legislative Council, requesting him for leave of the House to Dr. Shrikant Ramchandra Jichkar, a former member of the Maharashtra Legislative Council and a sitting member of the Rajya Sabha to tender evidence before the Committee of Privileges of that Council relating to question of breach of privilege and contempt of the Chairman of the Council as Dr. Jichkar happened to be one of the two sponsors of the privilege notice in the Council. As there was no precedent in the Rajya Sabha in the matter, the Chairman referred the matter to the Committee of Privileges for laying down an appropriate procedure for the purpose. The Committee of Privileges laid down the following procedure:

The Committee is of the opinion that the House should not permit any one of its members to give evidence before the other House of Parliament or a committee thereof or before a House of a State Legislature or a committee thereof, without receiving a specific request clearly stating the cause and purpose for which his attendance is required and without the consent of the member whose attendance is required.

No member of the House should also give evidence before the other House or a House of State Legislature or a committee thereof without the leave of the House being first obtained. Further, whenever a request is received seeking leave of the House to a member to tender evidence before the other House or before a House of a State Legislature or a committee thereof, the matter may be referred by the Chairman to the Committee of Privileges. On a report from the Committee, a motion may be moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action should be taken in accordance with the decision of the House.

The Committee in the present case recommended that since Dr. Jichkar has confirmed his willingness to appear before the Privileges Committee of the Maharashtra Legislative Council, he may be permitted to do so.<sup>275</sup> The report of the Committee was adopted by the House on 30 March 1993.<sup>276</sup>

### Supreme Court and matter of privilege

The Supreme Court in a majority judgment in a Presidential Reference under Article 143 arising out of a conflict between the Uttar Pradesh Legislative Assembly and the Allahabad High Court (*Keshav Singh's case*), held that the powers and privileges conferred on State Legislatures by article 194(3) were subject to the fundamental rights and that the legislatures did not have the privilege or power to the effect that their general warrants should be held conclusive. The Supreme Court held in the case of *Sharma*,<sup>277</sup> that the general issue as to the relevance and applicability of all the fundamental rights was not raised at all in that case. According to the Court, the majority decision in that case must be taken to have settled that article 19(1)(a) would not apply and article 21 would. The Court further held<sup>278</sup>:

In dealing with the effect of the provisions contained in Clause (3) of article 194, wherever it appears that there is a conflict between the said provisions and the provisions pertaining to fundamental rights, an attempt will have to be made to resolve the said conflict by the adoption of the rule of harmonious construction.

The opinion of the Supreme Court was discussed during the Presiding Officers Conference in 1965. The Conference adopted a resolution suggesting that the Constitution should be amended to clarify beyond doubt that powers, privileges and immunities of Legislatures and their members and committees could not, in any case, be construed as being subject or subordinate to any other articles of the Constitution. In the meantime, the Allahabad High Court upheld the power of the Legislative Assembly to commit for its contempt. No action was, therefore, taken on the resolution.<sup>279</sup> In 1984 again, in the context of cases pending in the Supreme Court, the Conference passed another resolution reiterating, *inter alia*, that legislatures in India had exclusive jurisdiction to decide all matters relating to privileges of the House, their members and committees without any interference from the courts of law or any other authority.<sup>280</sup>

### Legal process

As per well established practice and convention the Chairman does not respond to a notice from a Court requiring his appearance. Some of the instances are:

In 1964, the Chairman received a notice from the Supreme Court in the matter of the *Special Reference* (No. 1 of 1964) by the President under article 143 of the Constitution (*Keshav Singh's case*). The notice was discussed at an informal meeting of leaders of various parties/

groups in the Rajya Sabha. The consensus of opinion at the meeting was that the Rajya Sabha need not be represented in the *Reference* before the Supreme Court. The House agreed. The Secretary of the House was directed to inform the Supreme Court accordingly.<sup>281</sup>

In 1974, the Chairman received a notice from the Supreme Court in the matter of *Special Reference* under article 143 of the Constitution regarding Presidential election. As recommended by the General Purposes Committee, no action was taken on the notice. The House also agreed.<sup>282</sup>

In 1987, a notice was received by the Chairman from the Supreme Court in connection with a Transfer Petition filed by the Union of India seeking transfer of a writ petition filed by two members of Parliament wherein they had challenged the validity of the Constitution (Fifty-second Amendment) Act, 1985. The Chairman informed the House that “as per the practice, we do not propose to respond to the notice or put in an appearance in the Court” and that he was passing on the relevant papers to the Minister of Law and Justice for taking such action as he might deem fit in the matter. The House agreed.<sup>283</sup>

### **Privilege jurisdiction on a foreign national**

In the *Swaraj Paul* case, notices of a question of privilege were given against Shri Swaraj Paul, a London-based industrialist for allegedly casting reflections on two members of the Rajya Sabha in a Press interview in a weekly published from Bombay. The Chairman referred the matter to the Committee of Privileges, as it was the first case of its kind and there was no guidance as to the jurisdiction over a person who was not an Indian national or a citizen of India and the procedure to be followed in such cases. While the Committee accepted the words of explanation of Shri Paul in a spirit of forgiveness and recommended no further action in the matter, in jurisdictional respects the Committee obtained the opinion of the Attorney-General which was that Parliament can exercise jurisdiction *in persone* against a foreign national for contempt committed by him within the country.<sup>284</sup>

### **Codification of privileges**

As already stated, article 105(3) of the Constitution, *inter alia*, leaves powers, privileges and immunities of each House of Parliament, and of the members and committees thereof, to be defined by Parliament by law. No comprehensive law has so far been enacted by Parliament. In this context the question of undertaking legislation on the subject has been considered from time to time at various Conferences of Presiding Officers. The plea for codification of privileges has also been made by the Press Commission.

Various arguments have been advanced in favour of or against codification.<sup>285</sup> In 1994, the Committee of Privileges of the Lok Sabha undertook a study of various opinions on the subject. The Committee was “inclined to hold that preponderance of opinion is against codification of parliamentary privileges” and recommended that it was not advisable to do so.<sup>286</sup>

Further, the Committee of Privileges, Lok Sabha took up for consideration the matter regarding codification of Parliamentary Privileges and the 11th Report of the Committee in this connection was laid on the Table of the House (Lok Sabha) on 30 April 2008. The Committee in the matter elicited opinion from eminent persons/institutions belonging to Legislature, legal profession, media, academia and also foreign parliaments. The Committee having considered the entire gamut of aspects relating to Parliamentary Privileges, case law, ground realities and opinion of experts came to the conclusion that the majority of those who expressed their opinion in the matter did not favour codification of Parliamentary Privileges. The Committee finally opined that there does not arise any occasion for codification of Parliamentary Privileges and recommended against its codification.<sup>287</sup>

#### NOTES AND REFERENCES

1. Erskine, May, *Parliamentary Practice*, Butterworths, London, 24<sup>th</sup> Edn., 2011, p. 203.
2. *Ibid.*, p. 251.
3. Report of the Committee of Privileges in Captain Ramsay case, House of Commons, 164 (1939-40), para. 19 quoted in Kaul & Shakdher, (6<sup>th</sup> Edition), 2009, p. 219.
4. Report of the Committee of Privileges in Lewis case, House of Commons, 244 (1951), para. 22 quoted in Kaul & Shakdher, *ibid.*
5. Report of the Committee of Speakers, 1956, para. 18 quoted in Kaul & Shakdher, *ibid.*
6. Art. 105(1).
7. Art. 105(2).
8. *Ibid.*
9. Art. 122(1).
10. Art. 122(2).
11. Art. 361A.
12. Art. 361A(1), *Proviso*.
13. Art. 105(3).
14. Code of Civil Procedure, 1908, s. 135A.
15. Rs. 222A and 222B.
16. 1 Rpt., COP (adopted on 2.5.1958).
17. 33 Rpt., COP (adopted on 30.3.1993).
18. R.S. Deb., 30.3.1973, c. 115-16; and 21.11.1983, c. 415-18.
19. Rs. 84, 196, 208, 212E, 212L and 212T.
20. Art. 118(1).
21. *M.S.M. Sharma v. Shri Krishna Sinha*, AIR 1959 SC 395.
22. R. 265.
23. R.S. Deb., 21.12.1967, c. 5236-52 and 54; and 18.3.1982, c. 232.
24. *Ibid.*, 23.3.1982, c. 370-72; and 26.8.1983, c. 500-01.
25. *Ibid.*, 24.12.1980, c. 1-2; and 1.6.1990, c. 1-2.

26. R. 256.
27. R.S. Deb., 15.11.1976, c. 162.
28. *Tej Kiran Jain v. N. Sanjiva Reddy*, AIR 1970 SC 1573.
29. *M.S.M. Sharma, op.cit.*
30. *Suresh Chandra Banerji v. Punit Goala*, AIR 1951 Calcutta 176.
31. *Surendra Mohanty v. Nabakrishna Choudhury*, AIR 1958 Orissa 168.
32. *In. re. Satish Chandra Ghose*, AIR 1956 Calcutta 433.
33. For instance, Art. 121.
34. For instance, Rs. 238 and 238A.
35. Rs. 238, 240, 261, 262, 255 and 256.
36. 25 Rpt., COP, p. 4.
37. Art. 88.
38. Art. 105(4).
39. 1 Rpt., COP, *op. cit.*
40. 12 Rpt., COP (adopted on 20.12.1968).
41. *Ibid.*, Ministry of Home Affairs letter to State Governments, etc. *vide* No. 32/266/68-P. 11. I (A)/DS, 13.6.1969; F. No. 35/7/68-L.
42. *M.S.M. Sharma, op.cit.*
43. R. 264.
44. R. 265.
45. Art. 105(2).
46. R. 260.
47. Art. 361A.
48. Parliamentary Proceedings (Protection of Publication) Act, 1977, ss. 3 and 4. Original Act of 1956 remained repealed between February 1976 and April 1977.
49. *M.S.M. Sharma, op. cit.*
50. R.S. Deb., 2.3.1981, c. 145.
51. May, p. 224.
52. 29 Rpt., COP, para 10.
53. *M.S.M. Sharma, op. cit.*
54. 43 Rpt., COP.
55. 19 Rpt., COP, pp. 2-4.
56. *Ibid.*, p. 6.
57. R.S. Deb., 11.12.1980, c. 209-12. For full details, see *Parliamentary Privileges, Digest of Cases* (1950-85), [hereinafter referred to as *Digest*] pp. 421-26.
58. 20 Rpt., COP.
59. R.S. Deb., 24.12.1980, c. 1-2.
60. 3 Rpt., COP.
61. R.S. Deb., 9.3.1959, c. 3029-30.
62. *Ibid.*, 12.8.1966, c. 2483-91; see also R.S. Deb., 11.12.1963, c. 3046-47.
63. *Ibid.*, 29.3.1967, c. 1152-54.
64. *Ibid.*, 1.6.1972, c. 55-58; see also *Digest*, p. 427.
65. *Ibid.*, 27.3.1973, c. 170-71; 31.3.1973, c. 3-4; see also *Digest*, p. 427.
66. *Ibid.*, 1.8.1973, c. 181-82; 23.8.1973, c. 116-18; see also *Digest*, pp. 431-32.
67. *Ibid.*, 10.5.1978, c. 174-75; see also *Digest*, p. 428.
68. *Ibid.*, 24.7.1980, c. 85-86.
69. 22 Rpt., COP.
70. *Surendra Mohanty v. Nabakrishna Choudhury*, AIR 1958 Orissa 168.
71. *Sub-Committee of Judicial Accountability v. Union of India*, AIR 1992 SC 320, p. 353.
72. *State v. R. Sudarsan Babu & Others*, ILR (Kerala) 1983, pp. 661-700.
73. *Raj Narain Singh v. Atmaram Gobind*, AIR 1954 Allahabad 319.
74. *Ibid.*
75. 1 Rpt., COP, pp. 5-6.
76. F. No. RS 35/3A/97-L.
77. 1 Rpt., COP, pp. 5-6.
78. *Ibid.*, R.S. Deb., 2.5.1958, c. 1290-95.

79. R.S. Deb., 11.2.1964, c. 101.
80. F. No. 35/3/79-L; and 35/3/96-L.
81. May, p. 231.
82. F. No. 35/3/96-L.
83. Code of Civil Procedure, 1908, s. 135A.
84. *In the matter of Venkateswarlu*, AIR 1951 Madras 269.
85. *Kunjan Nadar v. The State*, AIR 1955 Travancore-Cochin 154.
86. *Ansumali Majumdar v. State of West Bengal*, AIR 1952 Calcutta 632.
87. *In re. K. Anandan Nambiar*, AIR 1952, Madras, 117.
88. *K. Anandan Nambiar v. Chief Secretary, Government of Madras*, AIR 1966 SC 657.
89. F. No. 35/19/76-L; and 35/3/77-L.
90. R.S. Deb., 4.9.1970, c. 50 and F. No. 35/19/76-L.
91. *Ibid.*, 4.12.1978, c. 249-51.
92. *Ibid.*, 24.3.1966, c. 4363-64.
93. *Ibid.*, 26.3.1965, c. 4685-86.
94. *Ibid.*, 9.5.1974, c. 121.
95. R. 2(1).
96. Ministry of Home Affairs letter No. 1/16012/25/95-IS(D.) (III); 19.6.1996, addressed to State Governments etc.
97. Ministry of Home Affairs letter No. 56/58/Judi., 14.4.1953 and 30.9.1953, and No. 35/2/57- P.II, 8.2.1958, addressed to State Governments, etc.
98. F. No. 39/1/94-L.
99. R. 222A and 2<sup>nd</sup> Sch.
100. R. 222B and 2<sup>nd</sup> Sch.
101. R. 222C.
102. *Ibid.*, 1<sup>st</sup> Proviso.
103. *Ibid.*, 2<sup>nd</sup> Proviso.
104. 24 Rpt., COP and Ministry of Home Affairs letter No. 1/13015/19/83/IS (D-III), 29.3.1984 in F. No. 35/26/83-L.
105. 30 Rpt., COP, p. 3.
106. 11 Rpt., COP.
107. *Digest*, p. 29.
108. 21 Rpt., COP.
109. *Ibid.*
110. *In re. K. Anandan Nambiar, op. cit.*
111. *Rulings and Observations from the Chair* (1952-2008), pp. 335-36.
112. *Digest*, pp. 29-30.
113. 30 Rpt., COP, pp. 3-5.
114. *Ibid.*, pp. 5-8.
115. *Ibid.*, pp. 8-9.
116. *Ibid.*, pp. 9-10.
117. 34 Rpt., COP.
118. 36, 38 Rpts., COP.
119. 21 Rpt., COP.
120. 30 Rpt., COP, p. 13.
121. R.S. Deb., 1.3.1977, c. 28-32.
122. F. No. 35/19/76-L.
123. Ministry of Home Affairs letter No. VII-11017/15/88-GPA. II, 4.10.1988.
124. 13 Rpt., COP, para. 12; and 25 Rpt., COP, para. 7.
125. 7 Rpt., COP.
126. 13 Rpt., COP.
127. 18 Rpt., COP.
128. 42 Rpt. COP.
129. May, p. 263; 13 Rpt., COP, p. 3; and 25 Rpt., COP, pp. 2-3.
130. 9 Rpt., COP.
131. May, p. 127.

132. 26 Rpt., COP.
133. 8 Rpt., COP.
134. 10 Rpt., COP.
135. May, p. 258.
136. M.O. *Mathai's Case* (2 Rpt., COP); *Hindustan Case* (9 Rpt., COP); *Khushwant Singh Case* (R.S. Deb., 16.8.1983, c. 233-36); *Acharya Rajneesh Case* (R.S. Deb., 5.8.1986, c. 156-57).
137. R.S. Deb., 22.12.1981, c. 202-04.
138. 51 Rpt., COP.
139. Bn. (I), 5.9.1974.
140. 53 Rpt., COP.
141. Privileges Digest (PD) (October 1990), pp. 6-9.
142. 13 Rpt., COP; 18 Rpt., COP, para. 13; and 25 Rpt., COP, p. 3.
143. 9 Rpt., COP.
144. R.S. Deb., 11.9.1981, c. 337-45.
145. *Ibid.*, 22.12.1981, c. 202-04.
146. 50 Rpt., COP.
147. R.S. Deb., 11.9.1981, c. 337-45; and 29.7.1983, c. 204.
148. *Ibid.*, 22.12.1981, c. 202-04.
149. 14 Rpt., COP.
150. R.S. Deb., 16.8.1983, c. 236
151. *Ibid.*, 5.8.1986, c. 156-57.
152. 2 Rpt., 9 Rpt., 14 Rpt., 18 Rpt., 28 Rpt., and 35 Rpt., COP.
153. 3 Rpt., COP, adopted on 9.3.1959.
154. 4 Rpt., COP, adopted on 20.9.1963.
155. 7 Rpt., COP, adopted on 10.12.1966.
156. R.S. Deb., 29.11.1967, c. 1734-35; 5.4.1971, c. 125-35; and 5.12.1980, c. 151.
157. 8 Rpt., COP.
158. R.S. Deb., 10.12.1966, c. 5413-62.
159. 13 Rpt., COP, p. 2 & 4.
160. 16 Rpt., COP; see also R.S. Deb., 2.8.1967, c. 1849-50; and 29 Rpt., COP.
161. May, p. 265.
162. 31 Rpt., COP.
163. May, 20<sup>th</sup> Edn., pp. 123-24.
164. *Homi D. Mistry/Nafisul Hassan*, ILR 1957, Bombay 218; *Harendra Nath Barua v. Devkant Barua & Others*, AIR 1958 Assam 160.
165. May, p. 104, 109; and *Sushanta Kumar Chand v. Speaker, Orissa Legislative Assembly*, AIR 1973 Orissa 111.
166. 19 Rpt., COP.
167. F. No. 35/27/80-L.
168. May, p. 196.
169. 19 Rpt., COP, para. 21; and 20 Rpt., COP, para. 6.
170. R. 259.
171. Rs. 255 and 256.
172. *Ibid.*
173. *Hardwari Lal's case*, ILR (1977) 2, Punjab & Haryana, p. 269.
174. *Yeshwant Rao Maghavale v. Madhya Pradesh Legislative Assembly*, AIR 1967 Madhya Pradesh 95.
175. *Digest*, pp. 745-46.
176. *Ibid.*, p. 747.
177. *Ibid.*, pp. 747-48.
178. *Ibid.*, pp. 748-49.
179. *Ibid.*, pp. 749.
180. *Ibid.*, p. 749-50.
181. May, p. 254.
182. 17 Rpt., COP, para. 11-14.

- 
183. R.S. Deb., 2.2.1980, c. 53-54.
184. *Ibid.*, 6.8.1980, c. 265; *see also* 11.9.1981, c. 337-45.
185. *Ibid.*, 2.2.1980, c. 53-54.
186. *Rulings and Observations from the Chair* (1952-2008), p. 357.
187. *Digest*, pp. 376-77.
188. *Ibid.*, p. 377.
189. *Ibid.*, p. 384.
190. PD (April 1987), pp. 5-9.
191. *Ibid.*, (April 1988), pp. 14-16.
192. R.S. Deb., 31.8.1981, c. 164-70.
193. *Digest*, pp. 115-16.
194. PD (April 1986), pp. 10-11.
195. R.S. Deb., 6.6.1964, c. 910-15.
196. *Digest*, pp. 270-71.
197. *Ibid.*, p. 271.
198. *Ibid.*
199. *Ibid.*, p. 247.
200. R.S. Deb., 8.4.1967, c. 2927-33.
201. *Digest*, p. 90.
202. *Ibid.*, p. 525.
203. *Ibid.*, pp. 79-80.
204. *Ibid.*, pp. 454-55.
205. R.S. Deb., 21.11.1955, c. 52-59.
206. *Ibid.*, 21.3.1978, c. 126-27 and 136-37.
207. *Digest*, p. 479.
208. R.S. Deb., 25.3.1982, c. 163-69.
209. 27 Rpt., COP; *see also* Chapter 5, for further details.
210. 26 Rpt., COP, *see also* Chapter 5, for further details.
211. R.S. Deb., 19.2.1982, c. 183-85.
212. PD (April 1986), pp. 9-10.
213. PD (April 1987), p. 4.
214. R.S. Deb., 25.2.1987, c. 208-13.
215. Rpt., COPLOT (Special report).
216. R.S. Deb., 28.3.1988, c. 254-57.
217. *Digest*, pp. 709-10.
218. *Ibid.*, p. 710.
219. *Ibid.*, pp. 711-12.
220. *Ibid.*, pp. 712-13.
221. R. 187.
222. R. 188.
223. *Ibid.*
224. *Rulings and Observations from the Chair* (1952-2008), p. 337.
225. R. 189.
226. R.S. Deb., 11.9.1981, c. 223-84; 337-45.
227. *Rulings and Observations from the Chair* (1952-2008), p. 345.
228. *Ibid.*, P. 339.
229. 30 Rpt., COP, para. 15.
230. *Ibid.*, para. 21.
231. *Ibid.*, paras. 14 and 20.
232. *Ibid.*, paras. 20 and 28.
233. R. 190(1).
234. *Ibid.*, 2<sup>nd</sup> Proviso.
235. R.S. Deb., 25.7.78, c. 185-98.
236. R. 190(1), 1<sup>st</sup> Proviso.
237. 7 Rpt., p. 15; 9 Rpt., p. 21; and 10 Rpt., p. 11, COP.
238. 7,9,10,13 (para. 4), 14 (para. 3), 15 (para. 4), 18 (para. 6), Rpts., COP; and Bn. (I), 5.9.1974.

239. R. 190(2).
240. Bn. (I) 5.9.1974.
241. R. 191; *see also* Ref. at 230 (*supra*).
242. 30 Rpt., COP, para. 20 (Case of arrest of Smt. Sushila Tiria, MP); para. 28 (Case of arrest of Maulana Obaidullah Khan Azmi, MP).
243. R.S. Deb., 5.6.1967, c. 2213.
244. 23 Rpt., COP, para. 3.
245. R.S. Deb., 24.8.1995, c. 241-62.
246. 54 Rpt., COP.
247. C.S. Deb., 11.5.1954, c. 5999-6000.
248. H.P. Deb. (Part I), 12.5.1954, c. 7162-69.
249. Rpt. of Jt. Sitting of Committees of Privileges of Lok Sabha and Rajya Sabha.
250. R.S. Deb., 6.12.1954, c. 866-67.
251. *Ibid.*, 8.12.1954, c. 1134.
252. *Digest*, pp. 361-64.
253. R.S. Deb., 25.3.1988, c. 274-78.
254. PD (April 1988), pp. 1-5.
255. 32 Rpt., COP.
256. 56 Rpt., COP.
257. Kaul & Shakdher, pp. 269-70.
258. *Digest*, p. 608.
259. *Ibid.*, p. 571.
260. *Ibid.*, p. 97.
261. For cases, *See* F. No. 35/35/92-L.
262. R. 238(iii).
263. R.S. Deb., 25.11.1986, c. 182-83.
264. *Ibid.*, 3.7.1980, c. 1-4.
265. *Rulings and Observations from the Chair* (1952-2008), pp. 346-47.
266. R. 203.
267. For instance 2, 3, 6, 22, 32, 35 Rpts., COP.
268. For instance 25 Rpt. (para. 4), 28 Rpt. (para. 7) and 31 Rpt. (para. 2), COP.
269. *See* Bn. (II), 22.3.1995, 12.5.1955, 14.12.1995, 1.3.1996 and 19.3.1996.
270. 25 Rpt., COP, para. 4.
271. 26 Rpt., COP, para. 2.
272. 33 Rpt., COP, para. 4.
273. *Digest*, pp. 604-05.
274. R.S. Deb., 6.5.1987, c. 279-84.
275. 33 Rpt., COP.
276. R.S. Deb., 30.3.1993, c. 300-09.
277. *M.S.M. Sharma, op. cit.*
278. *In the matter of Article 143*, AIR 1965 SC 745.
279. Kaul & Shakdher, p. 287.
280. *Ibid.*, p. 288.
281. R.S. Deb., 21.4.1964., c. 51-52; and 24.4.1964, c. 358-59.
282. *Digest*, p. 295.
283. PD (April 1988), p. 17.
284. 25 Rpt., COP, App. IV.
285. Kaul & Shakdher, pp. 194-203.
286. 4 Rpt., (10<sup>th</sup> LS) laid on the Table of the Lok Sabha on 10.12.1994.
287. 11 Rpt., (14<sup>th</sup> LS) laid on the Table of Lok Sabha on 30.04.2008.

## CHAPTER—9

### Rules of Conduct and Parliamentary Etiquette

#### **General observations**

**T**here are certain established parliamentary customs, conventions, etiquette and rules which are required to be observed by members, both inside the House as well as outside. These are based not only on Rules of Procedure and Conduct of Business in the Rajya Sabha and Rulings and Observations by the Chair but also on past practices, customs and conventions and precedents and traditions of Parliament, which a member comes to know through his/her personal experience in Parliament. All these are, what is technically known as parliamentary etiquette.<sup>1</sup>

A few days prior to the first sitting of the Rajya Sabha on 13 May 1952, a paragraph was issued in the Parliamentary Bulletin under the heading “Parliamentary Etiquette.”<sup>2</sup> It listed some of the important rules numbering twenty-seven which members were generally expected to observe in the Chamber. On 16 May 1952, a member objected to the said Bulletin on the ground that it was not in keeping with the privileges of members of the House and, therefore, demanded that it should be withdrawn. The Chairman observed that the Bulletin referred to practices which had been in observance hitherto and it was only for members’ guidance. Most of them were rules of parliamentary etiquette which were observed in Parliaments all over the world. Some of the members happened to be new to the House. Therefore, those suggestions had been made<sup>3</sup> (The paragraph was not, however, repeated thereafter).

The various customs, conventions, etc. are now mentioned in the *Handbook for Members* published by the Rajya Sabha Secretariat from time to time. Information about the parliamentary customs and etiquette required to be observed by members is also published in the Parliamentary Bulletin Part-II prior to the commencement of every session. These constitute in a way Do’s and Don’ts intended to guide members in their parliamentary behaviour. Generally, the behaviour of members should be such as to enhance the dignity of the House and its members. In other words, the conduct of members should not be contrary or derogatory to the dignity or prestige of the House or in any way inconsistent with the standards which the House is entitled to expect of its members. What precisely constitutes an unbecoming or unworthy conduct has not been exhaustively defined.

It is within the powers of the House to determine each case. Apart from the Committee of Privileges of the House which may inquire into cases of breach of privilege of the House by its members, the House may also appoint an *ad hoc* Committee to investigate the conduct of a member of the House with a view to determining whether a particular conduct of the member is derogatory to the dignity of the House and is, therefore, inconsistent with the standards which the House expects of the members. For example, the House appointed such committee to investigate the conduct of a member in 1976.<sup>4</sup>

### **Punishment for misconduct by members**

The House has the right to punish its members for their misconduct in the House or outside. In cases of misconduct or contempt committed by the members, the House can impose punishment in the form of admonition, reprimand, withdrawal from the House, suspension from the service of the House, imprisonment and expulsion from the House.

The Madhya Pradesh High Court upheld expulsion of two members of the Madhya Pradesh Legislative Assembly observing that since the Legislative Assembly had the power and privilege of expelling a member resulting in the vacation of his seat, the correctness, legality or propriety of the resolutions expelling the concerned members could not be challenged in courts of law.<sup>5</sup>

However, the Punjab and Haryana High Court held that a State Legislature was not clothed with any power to expel duly elected members as a measure of punishment for contempt of the House. The Court, *inter alia*, observed that the punishment for contempt of the House was “known and well settled as being reprimand, suspension, fine and lastly the keystone in this context being the power to commit the contemner to prison.”<sup>6</sup>

The Supreme Court of India while upholding the Parliament’s power to expel the members involved in cash for query scam and in the alleged irregularities in the MPLAD Scheme, considered the question whether the powers and privileges of the Legislatures in India, particularly with reference to clause (3) of article 105 of the Constitution, include the power of expulsion of their members. While answering the question affirmatively, the Apex Court held that the power of expulsion can be claimed by Indian legislatures as one of the privileges inherited from the British House of Commons through articles 105(3) and 194(3) of the Constitution. The Court opined that the power of expulsion is not solely derived from the power of the British House of Commons of regulating its constitution or composition. It also held that the right to enforce privileges either by imposition of fine or confinement to prison or by expulsion is not part of any other privileges but is by itself a separate and independent power or privilege.<sup>7</sup>

Offences which are not sufficiently grave are punished by admonition or reprimand. An admonition is a milder form of reprimand; reprimand is more serious punishment of the two.<sup>8</sup> On an occasion, a motion to condemn the behavior of a member of the Rajya Sabha who had caused obstruction during the President's Address was included in the list of business and discussed inconclusively.<sup>9</sup> On another occasion, during 188<sup>th</sup> Session, a member of the Rajya Sabha was reprimanded by the Chairman for his unbecoming conduct while making a special mention regarding murder of a Hindu in Rajasthan.<sup>10</sup>

### **Reprobation of conduct**

There have been instances when a member's misconduct or misbehaviour has attracted adverse comments or reprobation from the Chair.

On an occasion when a member was persistently disobeying, the Chairman (Dr. S. Radhakrishnan) remarked, "I am very sorry that you behave like this. Your behaviour is an indignity to the whole House."<sup>11</sup>

On 18 February 1963, a member of the Rajya Sabha interrupted the President's Address in the Central Hall and walked out. Next day when the House met, members belonging to different sections expressed regret on that incident. The Chairman agreed with the views expressed by members that the conduct of the member who interrupted the President's Address was reprehensible and unbecoming of a Member of Parliament. He, *inter alia*, observed that "any member who deviates from decorum and dignity deserves to be chastised."<sup>12</sup>

On another occasion, when a member physically restrained another member from addressing the House, the Chairman expressed his concern at the lack of orderly conduct on the part of the concerned member. The Chairman described the action of the member as amounting to contempt of the House which the House could have condemned then and there. He further observed that the reputation of the House was sullied by such action which could not be tolerated. No action was taken against the erring member in view of the apology tendered by him.<sup>13</sup>

Yet on another occasion, a member used certain derogatory words against another member of the House which were expunged by the Deputy Chairman. The member was also alleged to have waved a shoe in the House against another member. The Chairman called the concerned member to his Chamber. In view of the denial by the member that he waved a shoe, the Chairman allowed the matter to rest there, but observed, *inter alia*:

...such lack of decorum either in speech or behaviour does credit to none. The reputation of the entire House is sullied by such actions. It is my personal request to every member of this House to carry on the work we are called upon to do by the people in a dignified and orderly manner.<sup>14</sup>

On 26 April 1988, towards the end of the sitting, a member threw a copy of the rule book and angrily walked out at the time of laying on the Table a copy of the JPC Report on Bofors. The Deputy Chairman described the member's behaviour as "most disgusting" before adjourning the House for the day. Next day, the Chairman after reading out the report of the Deputy Chairman on the incident condemned the member's conduct and observed that it was an act which was repulsive and deplorable, to say the least. No amount of provocation could justify such an unbecoming and undignified conduct. He cautioned that "an act which brought disrepute to the House would not be tolerated."<sup>15</sup>

On 3 March 2008, eight members entered the 'Well' of the House during Question Hour shouting slogans on the issue of loan waiver to farmers. That was viewed by the Chair as violation of the rules on the part of those members. Later, a Parliamentary Bulletin Part-II was issued on the same day, giving the names of erring members, and urging the members to recall the Resolution unanimously adopted by the Rajya Sabha on 1 September 1997, on the occasion of Golden Jubilee of Independence which *inter alia* stated, "That the prestige of the Parliament be preserved and enhanced, also by conscious and dignified conformity to the entire regime of Rules of Procedure and Conduct of Business of the Houses and directions of the Presiding Officers relating to orderly conduct of business, more especially by maintaining the inviolability of the Question Hour, refraining from transgressing into the official areas of the House, or from any shouting of slogans," Attention of members was also invited to rule 235 of the Rules of Procedure and Conduct of Business in the Council of States, which deals with rules to be observed in the Council. The members were requested to scrupulously observe those rules of behaviour.<sup>16</sup> However, the said para in the Bulletin was later expunged by another para in Parliamentary Bulletin Part-II dated 5 March 2008 in view of the regret expressed by the party leader of the erring members and accepted by the Chairman.<sup>17</sup>

The 230<sup>th</sup> Session, held in two parts from 5 to 18 December 2013 and 5 to 21 February 2014, was marred by continuous disruptions when several members came to the Well of the House, shouted slogans and displayed banners in gross violation of the rules of procedure and parliamentary etiquette. As a result, Question Hour could not be conducted throughout the Session and not even a single question could be answered orally. On many days, the Chair was forced to repeatedly adjourn the House. The Chairman (Shri M. Hamid Ansari) during the second part of the 230<sup>th</sup> Session on 7 February 2014 *inter alia* observed:

"Hon'ble members, for several days, now, we have been in a situation of being forced to witness deviations from the decorum of the House by people coming into the Well and shouting slogans. I wish to inform the Hon'ble members that this will precisely be reflected in the proceedings of the House."

Accordingly, the names of members, who from time to time, indulged in gross disorderly conduct in violation of rules and etiquette of the Rajya Sabha by entering the Well of the House and persistently and wilfully obstructed the proceedings of the House, were published on a daily basis in Parliamentary Bulletin Part-I.<sup>18</sup>

During the 230<sup>th</sup> Session, a member disrupted persistently the proceedings of the House by coming into the Well of the House and shouted slogans opposing the passing of the Andhra Pradesh Reorganisation Bill, 2014. On one occasion, the member tried to snatch the copy of the Bill from the Secretary-General while the latter was reporting the message from the Lok Sabha to the House regarding passing of the said Bill by the other House. The conduct of the said member was viewed seriously and Deputy Chairman who was in the Chair observed that this might tantamount to breach of privilege of the House. Later, the member tendered his unconditional apology to all the members in the House and also submitted his written apology in this regard. The member also expressed regret for the inconvenience caused to the officers and staff of the Secretariat. The matter was thereafter closed.<sup>19</sup>

### **Withdrawal from the House**

The Chairman may direct any member whose conduct is grossly disorderly to withdraw from the House immediately.<sup>20</sup> There have been instances in the Rajya Sabha when members have been directed to withdraw for disorderly behaviour:

When during Question Hour a member went on interrupting the House and said that he would not keep quiet and would raise his voice, the Chairman directed him to withdraw as his conduct was, in the opinion of the Chairman, grossly disorderly. When the member persisted, the Chairman said that he would have to name the member whereupon the member withdrew.<sup>21</sup>

On 25 July 1989, during the Question Hour, a member was physically prevented from putting a supplementary question by another member. The Chairman remarked, “No manhandling of any member by anybody is permitted.”<sup>22</sup> The matter was raised during zero hour on 27 July 1989. Some members wanted that the erring member should apologise to the House. The member concerned explained that he had already regretted the incident in the Chairman’s room and would not regret again on the floor of the House. Thereupon, the Deputy Chairman observed that if the member did not regret, he should not sit in the House. The member thereafter withdrew from the House.<sup>23</sup>

When during Question Hour, a member went on disrupting the proceedings of the House in violation of the rules despite repeated

requests from the Chairman to desist from such behaviour, the Chairman observed that he would have to invoke rule 255 of the Rules of Procedure and Conduct of Business in the Council of States. The Chairman invoked the said rule directing that this should be on record.<sup>24</sup>

On 26, 27 August and 2 September 2013, the Deputy Chairman, under rule 255, directed two members to withdraw immediately from the House. Thereafter, the said members withdrew from the House.<sup>25</sup>

### **Suspension**

The Chairman may, if he deems it necessary, name a member who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing the business thereof.<sup>26</sup> If a member is so named by the Chairman, a motion is moved and adopted by the House for suspending the member from the service of the House for a period not exceeding the remainder of the session. The House may, however, by another motion terminate the suspension.<sup>27</sup> A few instances when members have been suspended are mentioned below:

Shri Godey Murahari was suspended for the remainder of the session on 3 September 1962. He was removed by the Marshal of the House.<sup>28</sup>

Shri Bhupesh Gupta and Shri Godey Murahari were suspended for the rest of the day on 10 September 1966, which was the last day of the 57<sup>th</sup> Session of the Rajya Sabha. Two separate motions were moved by the Chief Government Whip (Shri R.S. Doogar).<sup>29</sup>

Shri Raj Narain and Shri Godey Murahari were suspended for one week by two separate motions moved on 25 July 1966, by the Leader of the House (Shri M. C. Chagla) and adopted by the House. After they refused to withdraw, they were removed by the Marshal of the House. Next day, the Chairman expressed his distress and leaders of parties expressed their regret at the incident.<sup>30</sup>

The Leader of the House (Shri M. C. Chagla) moved a motion on 16 November 1966, for suspension of Shri B.N. Mandal for a period of ten days. Later on, the member withdrew and the Leader of the House also withdrew the motion.<sup>31</sup>

The Leader of the House (Shri Jaisukhlal Hathi) moved a motion on 14 December 1967, for suspension of Shri Raj Narain for the rest of the session. The motion was adopted but the member did not withdraw. The House was adjourned for lunch-recess. When the House reassembled, the member continued to sit in the House. A motion was moved by a member that the House be adjourned for ten minutes. It was accordingly adjourned. After the House reassembled, upon a motion moved and adopted, the suspension of the member was terminated.<sup>32</sup>

The Minister of Parliamentary Affairs (Shri Om Mehta) moved a motion on 12 August 1971, for the suspension of Shri Raj Narain for the remainder of the session. The motion was adopted. Shri Raj Narain, on refusing to withdraw, was removed by the Marshal of the House.<sup>33</sup>

The Minister of State in the Department of Parliamentary Affairs moved a motion for the suspension of Shri Raj Narain on 24 July 1974, for the remainder of the session. The motion was adopted. He refused to leave the House. The Marshal of the House was called and the member was removed. Thereafter, the House discussed the matter and at the end, the Minister moved the following motion which was adopted:

“That Shri Raj Narain be suspended from the service of the House for the rest of the day and his suspension for the remainder of the session as resolved earlier by the House, be terminated.”

Next day, Shri Raj Narain was permitted to make a statement on the incident.<sup>34</sup>

The Minister of State in the Ministry of Parliamentary Affairs (Shri M. M. Jacob) moved the following motion on 29 July 1987:

The hon’ble member Shri Puttapaga Radhakrishna has violated the rules of this House by exhibiting derogatory remarks written on a piece of paper which is contempt of this House and the House unanimously resolves that he may be suspended for a week from the House.

The motion was adopted. The member, however, continued to sit. The House was, therefore, adjourned for an hour and then for the rest of the day.<sup>35</sup>

Consequent upon the acceptance of the recommendation of the Committee on Ethics as contained in its Fifth Report, Dr. Chhatrapal Singh Lodha was suspended from the House on grounds of having been caught on tape accepting money for asking questions, pending the presentation of the final report of the Committee.<sup>36</sup>

The Minister of State in the Ministry of Parliamentary Affairs (Shri Prithviraj Chavan) moved a motion on 9 March 2010 for suspension of seven members, namely Shri Kamal Akhtar, Shri Veer Pal Singh Yadav, Dr. Ejaz Ali, Shri Sabir Ali, Shri Subhash Prasad Yadav, Shri Amir Alam Khan and Shri Nand Kishore Yadav for the remaining part of the session. The motion was adopted by the House. Accordingly, the said members were suspended from the service of the House for the remaining part of the 219<sup>th</sup> Session, i.e. from 9 March to 7 May 2010.<sup>37</sup> Those members were also evicted from the House by the Parliament Security Service on the instructions of the Chair when they refused to

leave the House and squatted on its floor and continued to disrupt the proceedings. Later, however, the Minister of Parliamentary Affairs (Shri Pawan Kumar Bansal) moved a motion on 15 March 2010 to terminate the suspension of four members namely, Shri Veer Pal Singh Yadav, Shri Kamal Akhtar, Shri Nand Kishore Yadav and Shri Amir Alam Khan from the services of the House w.e.f. 9 March 2010 for the remaining part of the 219<sup>th</sup> Session. The motion was adopted by the House.<sup>38</sup> Subsequently, on two motions moved by the Minister of State in the Ministry of Parliamentary Affairs (Shri Prithviraj Chavan) and adopted by the House, the suspension of Shri Sabir Ali and Shri Subhash Prasad Yadav was terminated on 23 April and 28 April 2010 respectively.<sup>39</sup> The suspension of Dr. Ejaz Ali, however, continued till the end of the session.

### **Expulsion**

In an extreme case of misconduct, the House may expel a member from the House. As observed by May, “The expulsion by the House of Commons of one of its Members may be regarded as an example of the House’s power to regulate its own constitution, though it is, for convenience, treated here as one of the methods of punishment at the disposal of the House. Members have been expelled for a wide variety of causes”.<sup>40</sup>

There have been three instances of expulsion of members of the Rajya Sabha.

Shri Subramanian Swamy was expelled on 15 November 1976 on the basis of the Report of the Committee appointed to investigate his conduct and activities. The Committee found his conduct derogatory to the dignity of the House and its members and inconsistent with the standards which the House expects from its members.<sup>41</sup>

Dr. Chhatrapal Singh Lodha was expelled on 23 December 2005, for his conduct being derogatory to the dignity of the House and inconsistent with the Code of Conduct, consequent on the adoption of a motion by the House agreeing with the recommendation contained in the Seventh Report of the Committee on Ethics.<sup>42</sup>

Dr. Swami Sakshi Ji Maharaj was expelled on 21 March 2006, for his gross misconduct which brought the House and its members into disrepute and contravened the Code of Conduct for members of Rajya Sabha, consequent on the adoption of a motion by the House agreeing with the recommendation of the Committee on Ethics contained in its Eighth Report.<sup>43</sup>

### **Customs and Conventions**

A member elected for the first time has to make himself familiar with certain parliamentary customs and conventions which are

well-established. Some such customs and conventions (which may not be taken as exhaustive) are mentioned below:

Before making and subscribing the oath or affirmation, it is customary for members to call on the Chairman. The calling on is arranged by the Table Office or the Notice Office who also advise members on the procedure for making and subscribing the oath or affirmation and the papers to be submitted by them.<sup>44</sup> Members have also to deposit in the Table Office the Certificate of their election issued by the Returning Officer and furnish information regarding their political affiliation in the prescribed form under the Tenth Schedule to the Constitution. For other information and matters concerning their membership or parliamentary business, members can contact the Rajya Sabha Notice Office.

Every member should, while coming to the House for a sitting, bring with him/her the Identity Card issued to him/her by the Rajya Sabha Secretariat so that the security staff on duty in the precincts of the Parliament House may let him/her in without hindrance, the security staff have strict orders not to allow strangers into the Parliament House; it is also not always easy for the staff to get acquainted with the names and appearances of a large number of members.<sup>45</sup>

Before entering the House, a member has to record his/her presence every day in the Attendance Register which is placed on a rostrum in the Lobby.<sup>46</sup>

During the sittings of the House, a member may receive a slip or slips intimating about that a visitor wishes to see him/her. Arrangements have been made for members to meet such visitors in the Reception Office adjacent to the Parliament House Building.<sup>47</sup>

A member should say or do nothing on the floor of the House that is not warranted by the Rules of Procedure, rulings or precedents or by the accepted and established customs, conventions and usages of the House.<sup>48</sup>

If members are in possession of confidential information owing to their being Members of Parliament or Members of Parliamentary Committees, they should not disclose such information for advancing their personal interests.<sup>49</sup>

Members should desist from giving certificates to individuals and institutions of which they have no personal knowledge and are not based on facts.<sup>50</sup>

A notice for raising a matter in the House should not be given publicity by any member or other person until it has been admitted by the Chairman and circulated to members.<sup>51</sup>

Rulings are given by the Chair according to precedents of the House and where there is no precedent, the usual parliamentary practice is followed. Rulings given by the Chair should not be criticised directly or indirectly inside or outside the House.<sup>52</sup>

When a member questioned the decision of the Chairman in rejecting a calling attention notice, the Chairman ruled, "...according to the practice which prevails in this House, any hon'ble member who wishes to say something about the ruling or decision of the Chair, should meet the Chairman in his Chamber. His ruling cannot be contested or his decision cannot be contested on the floor of the House."<sup>53</sup>

On 25 February 1970, certain remarks made by a member against the Supreme Court were expunged by the Chair. Next day, the member raised the matter in the House. Some other members also participated in the discussion. The Deputy Chairman made the following observation:

...It is rather an unfortunate thing that this has been discussed in this House... If at all any person feels aggrieved by any ruling given by the Presiding Officer, the normal course would be for him to approach the Chairman and, in consultation with the Presiding Officer at that time, to discuss the whole matter and to get it settled. It is not desirable that the rulings of the Presiding Officers should be discussed in this House. I hope this will not be treated as a precedent but only as a sort of exception. I hope no such ruling would be debated and discussed in this House in future.<sup>54</sup>

The decorum and the seriousness of the proceedings of the House require that there should be no "Thanks", "Thank you", "Jai Hind", "Bande Mataram" or any other slogans raised in the House. The proceedings of the House do not record any "Applause" or "Cheers" or "Laughter" made in the House.<sup>55</sup>

Matters pertaining to the Rajya Sabha/Lok Sabha Secretariats, their working, or the functioning of the Chairman, Rajya Sabha/Speaker, Lok Sabha, should not be mentioned on the floor of the House. Questions pertaining to them are not admitted or answered on the floor of the House nor are the budget estimates of the Rajya Sabha/Lok Sabha Secretariat's discussed either in the House or any Committee. It is also not proper to refer to or mention about officers of either House in debates.<sup>56</sup>

When a member made certain remarks about the Secretariat with regard to admission of certain questions, some members objected to the same as being derogatory. The Deputy Chairman observed that no aspersions should be cast on the Secretariat on the floor of the House.<sup>57</sup>

A member while speaking on the Appropriation (No. 2) Bill, 1968, suggested that officers of the Rajya Sabha Secretariat should be transferred after every three years. If they stayed longer than three years in one place, a certain amount of vested interest was being created, this did not make either for impartiality or objectivity or fair play. Next day, the Chairman made the following observation:

I was unhappy to see in yesterday's proceedings certain references made by one of the members to the Secretariats of the Rajya Sabha and the Lok Sabha. It is a well known convention that ordinarily no reference to the Secretariat of a House of Parliament or its officers is made on the floor of the House. If any member has any grievance against any particular officer or anything done in the Secretariat, the proper course for that member is to approach the Presiding Officer in his Chamber. Members should remember that officers of the Secretariat perform a very difficult and sometimes delicate job, because they have to deal with members belonging to all parties and groups and it is expected of them that they will discharge their duties without fear or favour. In any case, a member, if he has any complaint, must invariably seek his remedy in the Presiding Officer's Chamber, as the Presiding Officer is responsible for all actions of the Secretariat.<sup>58</sup>

On another occasion, in respect of a calling attention notice, a member stated that the Secretariat had become a super cabinet.<sup>59</sup>

On 19 August 1968, the Chairman gave a ruling regarding admission of calling attention notices and made the following observation in respect of the reference to the Secretariat:

...It is unfortunate that some members should have made references to the Secretariat in this connection... members should remember that the officers of the Secretariat perform a very difficult and sometimes delicate job, because they have to deal with members belonging to all parties and groups and it is expected of them that they will discharge their duties without fear or favour. It will not be conducive to the efficient and independent functioning of the Secretariat if members start attributing motives to it or make allegations against it on the floor of the House.<sup>60</sup>

On an occasion when a member wanted to raise a matter regarding an article published in a newspaper about the procedure being followed in the Secretariat (perhaps regarding admission of notices) the Deputy Chairman invited the attention to the convention that the procedure or the activities or work done by the Rajya Sabha Secretariat had never been discussed on the floor of the House.<sup>61</sup>

A member while participating in the discussion on the Administrative Tribunals (Amendment) Bill, 1986, referred to the appointment of an

I.A.S. Officer made by the Chairman in the Secretariat.<sup>62</sup> He expunged those portions and gave a ruling next day inviting attention of the House to the well-established convention that matters pertaining to the Secretariat and the functioning of the Chairman and reference to officials of the Secretariat in the debates were not proper. He implored upon the House to adhere to this convention so that the House was able to secure the services of the officials in the Secretariat impartially and without fear or favour.<sup>63</sup>

During the course of a special mention on 30 April 1992, regarding educational and allied problems of minorities, a member mentioned a case of an alleged injustice to an employee in the Lok Sabha Secretariat. The remarks went unnoticed that day. Subsequently, on the attention being drawn to this, the Chairman ordered the expunction of the remarks and the member was informed accordingly.<sup>64</sup>

### **Rules to be observed in the House**

While the House is sitting, members are expected to observe certain rules of parliamentary etiquette. Some of the important rules are as follows:

Members should be present in the House a few minutes before the scheduled time of the commencement of the sitting which is ordinarily 11.00 a.m. At the appointed time, the Marshal announces the arrival of the Chairman, whereupon the Chairman immediately enters the Chamber. Members should stop all conversation, be in their seats and rise in their places. Members who enter the House at that time should stand silently in the gangway till the Chairman takes the Chair and thereafter they should go to their seats.<sup>65</sup>

Every member should enter and leave the Chamber with decorum and in such a manner as not to disturb the proceedings of the House. During a sitting, a member may, if he/she requires, go out by a door of the Chamber close to his seat without causing any disturbance to the House. Members should not so converse amongst themselves in the House as to disturb the proceedings of the House. Such talks, though not very audible at distance, yet considerably cause disturbance due to special and sophisticated sound arrangements in the Chamber.<sup>66</sup> Also, while in the Lobby, members should conduct in a manner and converse with each other in a subdued tone to avoid disturbance to proceedings of the House.<sup>67</sup>

During a discussion on a calling attention, when some cross-talk was going on between some members, the Deputy Chairman observed:

“Cross-talks and whisperings will not go on record... unless they have to form part of the proceedings.”<sup>68</sup>

While entering or leaving the House and also when taking or leaving his/her seat every member should bow to the Chair.<sup>69</sup> Such bowing symbolises the respect to the whole House and not to any occupant of the Chair only.

A member should not pass between the Chair and other member who is then speaking.<sup>70</sup>

On 9 August 1952, a member, *inter alia*, said, “Everyday I am seeing the sergeants (staff) almost crawling on the floor when they approach some hon’ble members or Secretary.” The Chairman observed, “They do not want to come between the Chair and the speaker.”<sup>71</sup>

A member should not sit or stand with his/her back to the Chair.<sup>72</sup> This is considered disrespectful and whenever it is brought to the notice of the Chair the member concerned is instantly checked.

On an occasion, the Prime Minister, Shri Jawaharlal Nehru, was talking to his colleague Shrimati Lakshmi Menon at her seat in the House, in a manner that the Chairman noticed his back. With firmness Chairman (Dr. S. Radhakrishnan) said, “Mr. Prime Minister, what are you doing?” The Prime Minister realised, walked back to his seat and apologised.<sup>73</sup>

On an occasion, the Chairman requested Shri Piloo Mody, (rather a fat member) not to turn his back to the Chair. The member saying that he did not mean any offence explained in good humour, that he had certain physical disabilities and one of them was that “the eyes are located on one side of my body only.”<sup>74</sup> On another occasion when a member pointed out that Shri Mody was standing with his back to the Chair, Shri Mody again said, “You know I am round; I have no back and no front.”<sup>75</sup>

On another occasion, the Chairman noticing a member’s back (addressing the member) remarked:”... you are too handsome, do not show your back.”<sup>76</sup>

A member, in his seat, should not read any newspaper, periodical, book or letter, except in connection with, or necessary for, the business of the House.<sup>77</sup>

When a member drew the Chairman’s attention to the fact that some member was reading newspaper in the House, the Chairman observed:

I think it is very improper and very discourteous to the House, not to say to the Chair, to read newspaper in the House.

When another member contended that it might be in connection with a particular subject, the Chairman further observed, “He cannot hold it and read it like that...He can refer to that.”<sup>78</sup>

A member is not to interrupt or obstruct any member who is speaking, by disorderly expression, hissing, making running commentaries or other interruptions or noises or in any other disorderly manner.<sup>79</sup> He should maintain silence when not speaking in the House.<sup>80</sup>

When a member wants to speak he should rise in his place to attract the attention of the Chair. No member should speak unless he/she has caught the ‘eye’ of the Chair and has been identified by the Chair by name or by a sign to speak.<sup>81</sup>

On an occasion when a member was trying to interrupt the Leader of the House frequently while he was speaking, the Deputy Chairman observed:

I find that there is a tendency to speak even before catching the eye of the Chair. That is not contemplated by the rules. No member can make a speech before he catches the eye of the Chairman. Let there be no interruption from anyone before catching the eye of the Chair. Let the member first catch the eye of the Chair and then begin to speak.<sup>82</sup>

No member should argue with another member when the latter is speaking. He/she may, however, ask through the Chair, questions with a view to obtaining information from the member who is speaking. But a member who is addressing the House with the permission of the Chair should not be interrupted by another member persistently. It is open to the former not to give way or yield but go on with his speech if the interruption is not for raising a point of order with the permission of the Chair.<sup>83</sup>

A member should speak only from the seat allotted to him. When a member is not sitting in his own seat, he may not be called to ask a supplementary question or to speak.<sup>84</sup>

During Question Hour, on an occasion, several members were found to be putting questions from seats other than those allotted to them. The Deputy Chairman requested that during Question Hour each member should be in his allotted seat.<sup>85</sup> On another occasion, when a member who was sitting in another member’s seat was trying repeatedly to intervene, the Deputy Chairman reminded the member that he was not in his seat.<sup>86</sup>

However, if a member speaking from his place is inaudible to the reporters, he may be permitted by the Chair to speak from a seat near the microphone.

On an occasion, the Deputy Chairman asked a member to come near the mike and speak. Another member raised a point of order that the

member was not speaking from his designated seat and that by leaving his seat and coming nearer the mike, the concerned member had shown disrespect to the House. The Deputy Chairman, while overruling the point of order, explained that he had permitted the member to speak from another seat because the reporters could not hear him from his seat and observed:

“...On several other occasions, people have been permitted to come near the mike from their seats...so that the reporters can hear them properly and take down. Even if a seat is not the seat of a particular member, it is up to the discretion of the Chair to allow him to speak from there. Sometimes, some members have been allowed to speak even while sitting also.”<sup>87</sup>

No member should raise in the House the subject-matter of a notice or communication sent by him to the Chairman unless he has been specifically permitted by the Chairman to do so. If no intimation has been received by the member, he should presume that the matter is either under the consideration of the Chairman or it has been disallowed by him.<sup>88</sup>

Members should not leave the House immediately after they finish their speeches. Courtesy to the House requires that after finishing their speeches they resume their seats and leave the House only afterwards, if necessary.<sup>89</sup>

When any member offers a criticism of another member or Minister, the latter is entitled to expect that the member criticising should be present in the House to hear his reply.<sup>90</sup>

In the course of his ruling regarding permission sought by a member to make a statement of personal explanation, the Chairman observed at the end:

I would also like to add that normally members who participate in debates and make criticisms of Government should be present in the House to listen to the replies to their criticisms so that occasions for personal explanation/statements...may not arise in future.<sup>91</sup>

No member should speak to the Gallery from inside the House, nor should he/she make any reference or appeal to it. Applause for any person sitting in the Gallery is out of order.<sup>92</sup> However, whenever the Chairman makes a reference to the presence of distinguished foreign visitors in the Special Box of the House, members do cheer those visitors by thumping their desks.

In the midst of discussion on a Bill, a member raised a point of order whether it was open to a member of the House to go to a visitors'

gallery and watch the proceedings from that place. Before the House adjourned for the day, the Deputy Chairman observed that although it was the custom for members to visit various galleries, it was not in order for a member to retain a seat in the gallery to the exclusion of, or on behalf of, a holder of a card for that gallery.<sup>93</sup>

A statement made by a Minister from the records in his possession should be accepted as correct, unless a point is deliberately raised to challenge it.<sup>94</sup>

If any statement is imputed to another member and the latter says that he did not make that statement the contradiction should be accepted without demur.<sup>95</sup>

Entering the House with coat hanging on the arm is improper and against the decorum of the House.<sup>96</sup>

Members should not stand in the passage of the Chamber. They must either sit down or go out.<sup>97</sup>

Members are forbidden to smoke in the Chamber. With the enactment of the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and the rules framed thereunder, smoking stands banned in public places. The provisions of the Act are also applicable to Parliament House Complex including Central Hall, Lobbies and corridors of the Rajya Sabha and Refreshment Room.<sup>98</sup> Smoking in any part of Parliament Library and taking of meals and/refreshments in the Reading Rooms are strictly prohibited.<sup>99</sup>

On an occasion, a member referred to the Parliamentary Bulletin instructing members regarding not throwing the cigarette ends on the floor, etc. The member considered the Bulletin as disrespect to the members. He stated that when smoking was not allowed in the Chamber, there was no need to put such a thing in a Parliamentary Bulletin. The Chairman saying that time should not be wasted over cigarette ends, observed, "There must have been cigarette ends found before a reference was made to them. We have not mentioned corpses, we have not mentioned dead stock because they have not been found."<sup>100</sup>

Two members should not keep standing at the same time.<sup>101</sup>

When a member is making a maiden speech, *i.e.*, when he is making a speech for the first time in the House he should not be interrupted.<sup>102</sup>

It has, however, been observed that sometimes a member making his or her maiden speech goes beyond the normally expected time and at times speaks beyond the scope of the matter under discussion.

Hon'ble Chairman has directed that a member making his/her maiden speech should do so in a manner that does not impinge on time management for the scheduled business of the day and should not exceed 15-20 minutes.<sup>103</sup>

Members should not, as far as possible, approach the Chair personally in the House. They may send chits to him, if necessary.<sup>104</sup>

While the discussion on a calling attention was going on, a member walked upto the Chairman to say something. The Chairman observed:

I would like hon'ble members, I would beg of them, not to come to me while the debate is going on. I am sorry for that. My attention is completely diverted...and it is a disadvantage to the House.<sup>105</sup>

The Chairman reiterated this after a couple of days when another member approached him.<sup>106</sup>

Members should not distribute within the precincts of the Parliament House, any literature, questionnaire or pamphlets, etc., unless prior permission has been obtained from the Chairman in writing in advance.<sup>107</sup>

On 13 September 1963, when the House reassembled immediately after the lunch recess, the Deputy Chairman made the following observation:

My attention has been drawn to the fact that on every seat a leaflet was put this afternoon. I think every hon'ble member knows the well-established convention in this House that nothing should be distributed in this House without the prior permission of the Chairman, whether it be a pamphlet, questionnaire or any other kind of paper. I do hope every hon'ble member will follow this well-established convention and whoever has done it will realise that he must never do it again.<sup>108</sup>

Members should not carry walking sticks into the Chamber, unless permitted by the Chairman on health grounds.<sup>109</sup>

Members should not carry and display arms in any part of the Parliament House complex. Production of exhibits on the floor of the House is not in order.<sup>110</sup> Some instances of wearing of badges or display of material in the House are mentioned below:

On an occasion, some members came to the House with black bands around their arms as a protest against attacks on Tamilians in Sri Lanka. When a member was calling the attention to the subject, he was asked to remove the badge.<sup>111</sup>

A member was wearing a badge and said that democracy was being murdered in Andhra Pradesh. The Chairman asked him to take off the badge and observed, “Anybody sporting a badge will be asked to leave the House by me and suspended for the rest of the day...no badge will be allowed and arms bands also or any of these things. After all, we are inside the House.”<sup>112</sup>

On 6 May 1985, some members came to the House with a badge of Congress Centenary Celebrations. On a point of order being raised, the Deputy Chairman asked members to remove the badges. Thereafter, some arguments ensued. The Chairman who was in his Chamber came back to the House to rule that although there was no rule prohibiting members from wearing badges, it was against the convention of the House. Thereafter, the concerned members removed the badges.<sup>113</sup>

A member came to the House with a garland of bullets when the House was to discuss Meham incident in Haryana. The Deputy Chairman asked him to remove it as it was against the convention of the House. Amidst noisy and disorderly scenes the House was adjourned for the day.<sup>114</sup>

A member tried to display a bottle of a popular brand of juice containing foreign matter. The Chairman did not allow, ruling that it was improper and if the member persisted action would be taken against him.<sup>115</sup>

However, there have been instances when members have produced or displayed exhibits in support of points they were making, such as, for instance, garland of onions,<sup>116</sup> model of Insat-1A,<sup>117</sup> small coins,<sup>118</sup> an arrow,<sup>119</sup> bloodstained clothes,<sup>120</sup> bottles of medicines,<sup>121</sup> stick (wooden piece) found in *idli*,<sup>122</sup> etc.

The Minister of Food and Civil Supplies displayed an advertisement in a newspaper wherein a man was shown drinking tea with a bitter face, to make out a point that propaganda was being carried by sugar mill owners against imported sugar which was the subject of a calling attention discussion that day.<sup>123</sup>

A member, while making a special mention about supply of poor quality of shoes to the Indian participants in Moscow Games, brought a specimen of them.<sup>124</sup> Next day under the direction of the Chairman the member apologised. The Chairman observed, “...it is against all rules and all kinds of conventions to produce a material object in the House. It was produced. You have expressed regret. The House is happy.”<sup>125</sup>

Immediately after Question Hour, a member displayed some photographs of political leaders in the company of an alleged smuggler. This provoked the Deputy Chairman to remark, “This is not a picture gallery; don’t bring photographs here.”<sup>126</sup>

A member is not to resort to hunger strike, *dharna*, demonstration, etc. in the precincts of the Parliament House or Estate or use it for the purpose of performing any religious ceremony.<sup>127</sup>

When a member was on hunger strike in the Lobby of the House, he was removed from the Parliament House, under the orders of the Chairman who made the following observations the next day:

Now, I want to make it quite clear that Parliament is not intended for Members of Parliament to remain here during the night or to make demonstrations or “Bhukh Hartals” or for any such activities. There was one member of Lok Sabha and one member of this House.

They did not want to leave the Parliament’s precincts and the Parliament estate because they said that they wanted to stay here for the night and they wanted to have some political demonstration or “Bhukh Hartal”. Now, under my orders, when they refused to leave, they were made to leave. I want to make it clear that this has never happened in the history of Parliament that anyone was allowed to remain here during the night. This Parliament, the Parliament’s precincts and estate are intended for parliamentary work and members are entitled to remain here when the work is going on. After that they have no right to remain here.

When a member pointed out that there was a compromise between the striking member and a Minister that the members could sit in the portico of the Parliament House Building, the Chairman disclaimed any knowledge of such compromise but observed, “There cannot be any such compromise even at the instance of the Government.”

On the observations of the Chairman quoted above, when a member stated that there was no fixed hour for leaving, the Chairman stated, “There is a fixed hour, reasonable time after the sitting is over.” He clarified further, “I am the judge of what is a reasonable time.”<sup>128</sup>

Members should maintain decorum and dignity in the debates, they should not indulge in any frivolity or flippancy during debate.

During the discussion on the Budget, there were exchanges between a Minister and a member. The Chairman observed:

Our discussions should take place with dignity, decorum and even charity to our opponents and if I find that these qualities are lacking, I am sorry for the House and for myself.<sup>129</sup>

On another occasion, referring to the tone of some of the speeches made on 17 March 1961, during the discussion on the resolution

regarding ‘Prohibition of marriage where the difference in age is over 15 years’, the Chairman observed:

I saw the proceedings of the House yesterday and I was greatly distressed by the lack of seriousness with which many members spoke in this House. That does not add to the dignity of the speakers or the reputation of the House.<sup>130</sup>

In ordering the expunction of some portion of the proceedings of the House on 27 September 1955, the Chairman observed:

...We want to maintain the good name and dignity of this House. Every one of us is interested in that as much as I am. I do not want it to be said that sometimes these discussions suggest that we are not behaving like serious, responsible Members of Parliament but rather like irresponsible professional agitators. That impression even all members of this House to whatever side they may belong, should avoid. We must be careful and preserve our good name and our dignity. That is what I am anxious about.<sup>131</sup>

### **Rules to be observed while speaking**

When a member rises to speak, his name is called by the Chairman. If more members than one rise at the same time, the member whose name is so called is entitled to speak.<sup>132</sup>

Members desiring to participate in a debate or discussion may adopt any of the following three methods.

- (a) The names of members may be supplied to the Chairman by the parliamentary party/group.
- (b) A member can also write directly to the Chairman expressing his wish to speak in a discussion.
- (c) A member may adopt the well-known parliamentary practice of catching the Chairman’s eye by rising in his place.

Lists of members who wish to participate in any debate in the House or slips from individual members in that regard should be sent to the Table and not to the Chair.

Unless a member rises in his place and catches the Chairman’s eye, he is not called upon by the Chairman to speak, irrespective of whether he has sent his name through his party/group or written directly to the Chairman.

The Chairman is not bound by the lists or order in which names have been directly given by parties/groups or individual members. The lists are for the Chair's guidance only and it is always open to him to make changes therein whenever he considers it necessary.

In the case of half-an-hour discussion, clarification on *suo motu* statement of ministers or statement in response to calling attention, members wishing to seek clarifications may send their names to the Table of the House or may catch the Chairman's eye, and speak when called.

In case of short duration discussions, Bills, resolutions, etc. where time is generally fixed or allocated by the Business Advisory Committee, time is allocated party-wise in proportion to their numerical strength and members wishing to participate may send their names to the Table through the Leader/Whip of the party, for inclusion in the list of speakers of that party subject to availability of time. Members permitted may participate when called on to do so by the Chair.<sup>133</sup>

It has been found in actual practice that the Presiding Officer has difficulty in allocating and regulating the speaking-time of individual members because a full list of intending participants is not available at the commencement of a debate. To overcome this difficulty and to minimise reminders from the Chair, it has been decided to request members who wish to speak in a debate to give their names to the Table Office no later than 30 minutes prior to the commencement of a debate.<sup>134</sup>

When speaking, members are to speak from their seats and rise while speaking and address the Chairman. A member disabled by sickness or infirmity is, however, permitted to speak while sitting.<sup>135</sup>

Before the Minister for Home Affairs (Shri Govind Ballabh Pant) moved a Motion for reference of the Constitution (Fourth Amendment) Bill, 1954, to a Joint Committee, the Chairman suggested to him that if it was more convenient to him to sit down and speak, with the permission of the House, he might do so. He accordingly did so thanking the Chairman and members for permitting him to speak while sitting.<sup>136</sup>

When, however, the Prime Minister, Shri Jawaharlal Nehru, who was unwell and was replying to questions in the Rajya Sabha, a member requested, through the Chairman, the Prime Minister to reply sitting and that he need not stand every time, the Prime Minister said, "Sir, I would like to preserve the decorum of the House."<sup>137</sup>

In their speeches, members cannot refer to any matter of fact on which a judicial decision is pending,<sup>138</sup> i.e., a matter which is *sub-judice*.

---

Where a member refers to such a matter in the course of his speech, the Chair asks him not to do so or may ask him to discontinue his speech.

Members are not allowed to make personal charges against other members.<sup>139</sup>

A member made certain personal charges against the Prime Minister, Shrimati Indira Gandhi, in the course of the debate on the Appropriation Bill.<sup>140</sup> The Chairman referring to rule 238(ii) observed that he had noticed a tendency recently in the House on the part of some members to overlook this important rule. Such tendency, he said, lowered the dignity of the House and certainly did not enhance the prestige of the members of the House. He also informed that the Prime Minister in her letter to the Chairman denied the charges as utterly baseless. He, therefore, asked the member to withdraw the allegations made by him. Upon the member not agreeing to it, the Leader of the House (Shri M.C. Chagla) read out a notice of motion to refer the matter to the Committee of Privileges. The motion was discussed in the House.<sup>141</sup> Next day, on the suggestion of a member the matter was left to be disposed by the Chairman and the motion was withdrawn.<sup>142</sup> On 7 September 1966, after hearing the member who made the allegation and reiteration by the Prime Minister of her denial, the Chairman asked the member to withdraw what he had said, which the member did and thus the matter was closed.<sup>143</sup>

No member is expected to use offensive expressions about the conduct or proceedings of the Houses or any State Legislature.<sup>144</sup> Rulings by the Chair further affirm that members should not make any critical reference about debates in the Lok Sabha.

A member speaking on the motion on the international situation made some critical reference to the debate on the subject in the Lok Sabha. The Prime Minister, Shri Jawaharlal Nehru, suggested that it should not be made a practice in the Rajya Sabha to refer to the debates in the Lok Sabha, even though it might be justified technically, it was a bad practice, the Lok Sabha discussing the Rajya Sabha and the Rajya Sabha discussing the Lok Sabha leading to trouble between the two Houses. The Chairman asked the member not to refer to the Lok Sabha and stated that the reference made by the member would be expunged from the proceedings.<sup>145</sup>

A member made certain comments about the manner in which the proceedings of the U.P. Legislative Assembly were being carried on. On an objection being taken to it, the Chairman stated that he did not want the proceedings of the U.P. Assembly discussed in the House. The portions referring to the Assembly were expunged from the proceedings.<sup>146</sup>

The Minister of Home Affairs (Giani Zail Singh), while replying to the debate on the dissolution of nine State Assemblies, referred to the expulsion of Shrimati Indira Gandhi from membership of the Lok Sabha and her being sent to jail. A point of order was raised that it amounted to casting reflection on the other House which was not permissible. The Chairman clarified that the Minister was attacking the attitude of a party which worked through a particular House and was not criticising the House, but requested the Minister that whatever he wanted to say might be said without reflecting on the other House.<sup>147</sup>

Members are also not expected to cast reflections on any decision or determination of the House except on a motion for rescinding such a decision.<sup>148</sup>

Members should not make allegations against or cast aspersions on persons in high authority unless the discussion is based on a substantive motion drawn in proper terms under the Constitution.<sup>149</sup>

When certain reports of the U.P.S.C. were being taken up for discussion the Deputy Chairman clarifying its scope observed. "Under articles 317 and 318, the powers of the Government and the Commission are defined. Any action of the Government in not implementing or accepting the recommendations of the Commission is open for criticism but criticism of the recommendations made by the Commission or the actions of the Commission or of particular members of the Commission will not be relevant." In this context, he also quoted the then existing rule 200(v) [corresponding to the present rule 238(v)].<sup>150</sup>

When the Comptroller and Auditor-General (Conditions of Service) Bill, 1953 was being discussed, a member said that though the then incumbent of the office of the Comptroller and Auditor-General had discharged some of his responsibilities very well, he had failed, in spite of his independence, to control certain things. The Deputy Chairman observed:

I will not allow any reflections to be cast on the Auditor-General... He is a person of high authority removable under the Constitution. If he has failed in his duty, there are certain ways of removing him... rule 200(v) [Corresponding to the present rule 238 (v)] says that a member while speaking shall not reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms. This is not a substantive motion to criticise the Auditor-General or to remove him.<sup>151</sup>

During the course of discussion on the Report of the Comptroller and Auditor-General of India on Defence Services (paragraphs 11 and 12), laid on the Table of the House on 19 July 1989, certain critical

references were made about the Comptroller and Auditor-General by some members on 21 and 25 July 1989, which had the effect of denigrating the office and person of the Comptroller and Auditor-General. The Chairman, on a representation made to him by a former member of the Rajya Sabha, ordered expunction of objectionable<sup>152</sup> comments from the proceedings as indicated in a list kept in the Notice Office and while doing so observed on the file:

I am constrained to record my sense of distress at the nature and number of objectionable comments made during the discussion, by which neither the dignity of the House, nor of the Comptroller and Auditor-General of India, has remained unaffected. Considerations of constitutional propriety as well as parliamentary etiquette would require that all derogatory references to the Comptroller and Auditor-General of India... be expunged forthwith from the record.<sup>153</sup>

Members are also barred from bringing in the name of the President for influencing the debate.<sup>154</sup> The conduct of the President should also not be discussed in the House.

During the course of a discussion on the Finance Bill, 1970 Shri Raj Narain brought in the name of the President. The Vice-Chairman stated that the conduct of the President shall not be discussed. On this, a member tried to make a distinction between the Office of the President and his personality saying that one was free to criticise the person in his individual capacity. Disallowing it, the Vice-Chairman ruled:

So neither by the name of the President nor, so long as he is the President, by the name of Mr. Giri should we discuss his conduct. So my ruling is that such a discussion cannot be allowed.<sup>155</sup>

On 7 June 1971, Shri A.G. Kulkarni while asking a supplementary question referred to the name of the President. The Chairman observed:

President's name should not have been mentioned.<sup>156</sup>

The language which members use should be parliamentary. They should not use words or expressions which are treasonable, seditious or defamatory.<sup>157</sup>

During the discussion on the international situation, a member made certain references to the President of Pakistan. The Prime Minister, Shri Jawaharlal Nehru, objecting to it said that it would not be proper in the House for the Head of a foreign State to be mentioned in the language the member had used...there were certain proprieties which had to be observed. The Vice-Chairman observed:

There are certain rules of procedure which preclude us from referring to the Head of a neighbouring State in such terms... I hope the hon'ble member will take care and he should not use such disparaging words.

The objectionable words were expunged from the proceedings.<sup>158</sup>

Once when a member was asking about help being given to guerillas fighting in Bangladesh, equipments captured, etc. the Minister of External Affairs stated that whatever the member had stated was likely to be used against India in international forums and appealed to the member not to indulge in that sort of exercise. The Deputy Chairman observed:

When we are performing our duties in this House hon'ble members should use responsible language in the House. The paramount consideration in everybody's mind should be that we will not do anything which will do even the slightest harm to our national interests.<sup>159</sup>

Members should not use their right of speech for the purpose of obstructing the business of the House.<sup>160</sup>

Except with the prior leave of the Chair, a member is not allowed to read out a written speech though notes may be referred to.<sup>161</sup>

A member is not allowed to read the speech for another member during the latter's presence in the House.<sup>162</sup>

A member should not make a personal reference by way of imputation of motive to or questioning the *bona fides* of any member, unless it is imperatively necessary for the purpose of the debate, being itself a matter in issue or relevant thereto.<sup>163</sup>

Words containing insinuations and offensive and unparliamentary expressions should be scrupulously avoided. When the Chair holds that a particular word or expression is unparliamentary, it should be immediately withdrawn without any attempt to raise any debate over it. Words or expressions held to be unparliamentary and ordered to be expunged by the Chair are omitted from the printed debates.<sup>164</sup>

As per convention, members should not in their speeches, refer to the proceedings of or matters raised during the meetings of Consultative Committees.

While taking part in the debate on the Finance (No. 2) Bill, 1980, a member wanted to quote from a document which had been circulated to the members of the Consultative Committee of Parliament attached to the Ministry of Finance. Upon an objection being raised, the Vice-Chairman advised the member to put it in a different way without referring to the Consultative Committee. He observed:

...normally we do not refer to documents or discussions in the Consultative Committees. Therefore, without bringing the Consultative Committee on the record, you can spell out what the Finance Minister said... do not bring in the Consultative Committee.<sup>165</sup>

On 21 August 1990, the Minister of State in the Ministry of Defence (Dr. Raja Ramanna), informed the House that the Prime Minister would make a statement at 5.00 p.m. on firing on Indo-Pakistan border “because the subject is of some importance.” While clarifying the use of expression “some importance” to which a member objected, he referred to the walkout of some members at a meeting of the Consultative Committee (of Defence). Member contended that as per settled convention, matters pertaining to the proceedings of the Consultative Committee were not to be mentioned in the House. There was some controversy about the matter. The Minister later apologised.<sup>166</sup>

On 27 March 1995, the Minister of Labour, in his written statement in response to a calling attention made mention about the discussions held in the meeting of the Consultative Committee of the Ministry of Labour on 14 December 1994. When objection was taken to this, nearly two paragraphs of the statement containing the references were omitted by him while making the statement.<sup>167</sup>

However, on an occasion the matter regarding the cancellation of a meeting of the Consultative Committee of the Ministry of Labour was raised in the House.<sup>168</sup>

### **Allegations against members**

No member should make any allegation of a defamatory or incriminatory nature against any other member or a member of the Lok Sabha unless the member making the allegation has given previous intimation to the Chairman and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply. The Chairman may at any time prohibit the member from making the allegation if he is of the opinion that such allegation is derogatory to the dignity of the House or that no public interest is served by making such an allegation.<sup>169</sup>

During the course of a calling attention a member mentioned that three persons whose names were given and one Member of Parliament had cornered the quota of yarn. Next day, he expressed regret for this, saying, “I have not done so in my career of 15 years as an M.P. I am immune as an M.P. and I have misused my privilege.”<sup>170</sup>

### **Questions to be asked through the Chair**

If a member desires to make an observation on a matter before the House or to ask a question of another member either to obtain clarification

or for the purpose of any elucidation or explanation about a matter which is under consideration of the House, he has to do so through the Chair.<sup>171</sup>

A member must not address individual members of the House while speaking, but he should always address the Chair and make all remarks to other members through the Chair. It is desirable that as far as practicable, a member should not be referred to by name, but in some other suitable way, e.g., "the member who has last spoken", "the member representing such and such State", "the member from..." etc. If necessary, full name may be used. Similarly, Ministers should be referred to by their specific designations and not by name.<sup>172</sup>

### **Irrelevance or repetition**

If the Chairman feels that a member while speaking is indulging in persistent irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, he may direct the member to discontinue his speech.<sup>173</sup>

When a member was speaking, the Deputy Chairman repeatedly warned him to be relevant to the subject matter of the calling attention. When the member persisted in speaking on issues not relevant, the Chair ordered that the rest of the member's speech would go off the record. Some members took exception to the Chair's order. The Deputy Chairman in his support, cited rule 259 (Chairman to preserve order and enforce decisions). This was also disputed by a member. Another member observed that this power should be used only in extreme cases. The Deputy Chairman, while giving his ruling observed that the Chair could exercise this power if in spite of three or four warnings a member persisted in making irrelevant remarks during his speech. Otherwise, it would become impossible to conduct the proceedings of the House. In conclusion he observed, "But there is some amount of discipline which members should also observe. Then this occasion will never arise."<sup>174</sup>

### **Procedure when Chairperson rises**

Whenever the Chairperson rises to address the House, members ought to hear him in silence and any member who is then speaking or offering to speak is required to sit down. No member should leave his/her seat while the Chairman is addressing the House.<sup>175</sup>

It is a well-known and recognised parliamentary convention that every member should resume his/her seat as soon as the Chairman enters to preside or rises to speak, or calls out "order".<sup>176</sup> It follows that members should not raise a point of order when the Chairman is addressing.

When a member sought to raise a question of privilege, the Deputy Chairman stood up to say that the facts presented by the member in the House had already been presented to the Chair in the Chamber. At that stage when many members stood up to speak all at once, the Deputy Chairman rose and said, "... I think this is very indecorous. When the Chair stands, I think, in courtesy to the Chair, every member should take his seat. I hope such thing like this will never recur in this House."<sup>177</sup>

On an occasion, when several members stood up and Chairman's request to them to resume their seats went unheeded, the Chairman stood up and observed, "If an hon'ble member speaks when I am standing, my instructions to the reporters are to completely black out what he says."<sup>178</sup>

### **Members having personal interest in a matter before the House and its Committees**

Whenever a member has a personal or specific pecuniary interest (direct or indirect) in a matter being considered by the House or a Committee, he shall declare the nature of such interest notwithstanding any registration of his interests in the Register, and shall not participate in any debate taking place in the House or its Committees before making such declaration.

On a division in the House if the vote of a member is challenged on the ground of personal, pecuniary or direct interest in the matter to be decided, the Chairman may, if he considers necessary, call upon the member making the challenge to state precisely the grounds of his objection, and the member whose vote has been challenged shall state his case, and the Chairman shall then decide whether the vote of the member should be disallowed or not and his decision shall be final.<sup>179</sup>

The Committee on Ethics in its Fourth Report presented to Rajya Sabha on 14 March 2005 and adopted by the House on 20 April 2005, identified five pecuniary interests, viz. (i) Remunerative Directorship; (ii) Regular Remunerated Activity; (iii) Shareholding of Controlling Nature; (iv) Paid Consultancy; and (v) Professional Engagement. Members are required to furnish information on these five pecuniary interests, which is maintained in the "Register of Members' Interests" as provided under rule 293 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha). As per rule 293, there shall be maintained a "Register of Members' Interest" in such form as may be determined by the Committee

which shall be available to members for inspection on request; the register shall be maintained under the authority of the Council; and information contained in the Register may be given to the general public in accordance with such rules and procedures as may be determined by the Committee from time to time.<sup>180</sup>

It may be mentioned that even prior to the framing of specific rules relating to the members' interests, a healthy parliamentary convention was prevalent in the House. Before participating in a discussion, a member would declare his personal, pecuniary or direct interest in a matter before the House or a committee.

The Committee of Privileges had under its consideration a complaint of breach of privilege against a journal, for which a notice was given by a member. On his own request, the Committee agreed that as the offending remarks made personal references to the member, it would not be proper for him to take part in the deliberations of the Committee as a member thereof.<sup>181</sup>

Again, when the Committee of Privileges was considering a complaint of breach of privilege arising out of a press release of a company, at the outset, a member of the Committee stated that as he had been associated with a number of legal cases where that company was involved, it would not be proper for him to take part in the deliberations of the Committee as member thereof. He, therefore, withdrew from the meeting of the Committee with its permission.<sup>182</sup>

A member disclosed at the beginning of his speech during the short duration discussion on JPC Report on Securities Scam on 30 December 1993, that he was professionally associated with the main accused involved in the scam and would subject himself to a voluntary restraint of not commenting on that portion of the controversy which had anything to do with the accused. There upon the Chair ruled:

“A member having a personal pecuniary or direct interest on a matter before the House, is required, while taking part in the proceedings on that matter to declare the nature of that interest”.<sup>183</sup>

On 31 August 2001, the Chairman made a ruling in the House on the issue relating to a pecuniary or other interest of a member while participating in the debates in the House. The Chairman ruled:

“While it is true that there is no rule at present which prohibits a member of this House from speaking on a subject of public interest merely because it affects the case of a person who is the member's client in that or another matter, the question is ultimately one of propriety, and I think that the House will agree with me that this has to be left to the good sense of the member concerned”.<sup>184</sup>

Therefore, declaration of direct, indirect or specific pecuniary interest in a matter before the House by the members was accepted as a reasonable practice in the absence of any rules in this regard. This aspect was also highlighted by the Second Report of the Ethics Committee of Rajya Sabha. Para 6 of the Report says:

There are occasions when a member may have direct, indirect or specific pecuniary interest in a matter being considered by the House or a Committee thereof. In such a case, he may declare the nature of such interest notwithstanding any registration of his interests in the Register and desist from participating in any such debate or vote taking place in the House or its Committees before making such declaration.<sup>185</sup>

### **Code of Conduct for Members**

The Committee on Ethics in its First Report presented to the Rajya Sabha on 8 December 1998 and adopted by it on 15 December 1999, after having deliberated on the Code of Conduct for Members at length, came to a definite conclusion that a framework of Code of Conduct be prepared for the Members of Rajya Sabha. The Committee in its Fourth Report also considered the Code of Conduct for Members and was of the view that the Code enumerated in the First Report was quite comprehensive. The Committee, however, felt the need to reiterate the same for information and compliance of the members. The Fourth Report of the Committee was presented to the Rajya Sabha on 14 March 2005 and adopted by it on 20 April 2005. Keeping in view the special needs and circumstances which obtain in our country, the Committee recommended the following framework of a Code of Conduct for Members of Rajya Sabha:<sup>186</sup>

The members of the Rajya Sabha should acknowledge their responsibility to maintain the public trust reposed in them and should work diligently to discharge their mandate for the common good of the people. They must hold in high esteem the Constitution, the law, parliamentary institutions and above all the general public. They should constantly strive to translate the ideals laid down in the Preamble to the Constitution into a reality. The following are the principles which they should abide by in their dealings:

- (i) Members must not do anything that brings disrepute to the Parliament and affects their credibility.
- (ii) Members must utilise their position as Members of Parliament to advance general well-being of the people.

- (iii) In their dealings if members find that there is a conflict between their personal interests and the public trust which they hold, they should resolve such a conflict in a manner that their private interests are subordinated to the duty of their public office.
- (iv) Members should always see that their private financial interests and those of the members of their immediate family\* do not come in conflict with the public interest and if any such conflict ever arises, they should try to resolve such a conflict in a manner that the public interest is not jeopardised.
- (v) Members should never expect or accept any fee, remuneration or benefit for a vote given or not given by them on the floor of the House, for introducing a Bill, for moving a resolution or desisting from moving a resolution, putting a question or abstaining from asking a question or participating in the deliberations of the House or a parliamentary committee.
- (vi) Members should not take a gift which may interfere with honest and impartial discharge of their official duties. They may, however, accept incidental gifts or inexpensive mementoes and customary hospitality.
- (vii) Members holding public offices should use public resources in such a manner as may lead to public good.
- (viii) If members are in possession of confidential information owing to their being Members of Parliament or members of parliamentary committees, they should not disclose such information for advancing their personal interests.
- (ix) Members should desist from giving certificates to individuals and institutions of which they have no personal knowledge and are not based on facts.
- (x) Members should not lend ready support to any cause of which they have no or little knowledge.
- (xi) Members should not misuse the facilities and amenities made available to them.
- (xii) Members should not be disrespectful to any religion and work for the promotion of secular values.
- (xiii) Members should keep uppermost in their mind the fundamental duties listed in Part-IVA of the Constitution.
- (xiv) Members are expected to maintain high standards of morality, dignity, decency and values in public life.

---

\*Immediate family includes spouse, dependent daughters and dependent sons.

## NOTES AND REFERENCES

1. *Handbook for Members of Rajya Sabha (HB)*, 2010, paras. 2.3(i) to (xlii).
2. Bn. (II), 8.5.1952.
3. C.S. Deb., 16.5.1952, c. 31-32.
4. R.S. Deb., 2.9.1976, c. 8-38.
5. *Yeshwant Rao Meghwale v. Madhya Pradesh Legislative Assembly and Ors.*, AIR 1967, M.P. 95.
6. *Hardwari Lal v. Election Commission of India and Ors.*, I.L.R. (1977) 2, Punjab & Haryana, 269.
7. *Raja Ram Pal v. The Hon'ble Speaker, Lok Sabha and Ors.* (2007) 3 SCC 184 as referred to in 'The Legislature and the Judiciary: Judicial Pronouncements in Parliament and State Legislatures' published for the Rajya Sabha Secretariat by Orient Blackswan Pvt. Ltd., 2011, pp. 22-23.
8. Norman Wilding and Philip Laundy, *An Encyclopaedia of Parliament*, London, Cassell and Company Ltd., 1958, p. 494.
9. R.S. Deb., 7.4.1971, c. 109-209.
10. Bn. (I), 23.12.1999.
11. R.S. Deb., 17.8.1955, c.188.
12. *Ibid.*, 19.2.1963, c. 81-91.
13. Bn. (I), 22.2.1978.
14. R.S. Deb., 28.3.1979, c. 19-21.
15. *Ibid.*, 26.4.1988, c. 301; and 27.4.1988, c. 190-91.
16. Bn. (II), 3.3.2008.
17. *Ibid.*, 5.3.2008.
18. Bn. (I), 7.2.2014, 10.2.2014, 11.2.2014, 12.2.2014, 13.2.2014, 17.2.2014, 18.2.2014, 19.2.2014 and 20.2.2014.
19. R.S. Deb., 19.2.2014, 21.2.2014; and F. No. RS. 35/7/2014-L.
20. R. 255.
21. R.S. Deb., 9.11.1987, c. 3-4.
22. *Ibid.*, 25.7.1989, c. 21.
23. *Ibid.*, 27.7.1989, c. 216-26.
24. *Ibid.*, 24.4.2008.
25. *Ibid.*, and Bn. (I), 26.8.2013, 27.8.2013 and 2.9.2013.
26. R. 256(1).
27. R. 256(2).
28. R.S. Deb., 3.9.1962, c. 4651-55.
29. *Ibid.*, 10.9.1966, c. 6405 and 6407.
30. *Ibid.*, 25.7.1966, c. 135-39; and 26.7.1966, c. 248-61.
31. *Ibid.*, 16.11.1966, c. 1410-11.
32. *Ibid.*, 14.12.1967, c. 4059-64.
33. *Ibid.*, 12.8.1971, c. 147-50.
34. *Ibid.*, 24.7.1974, c. 207-21; and 25.7.1974, c. 188-91.
35. *Ibid.*, 29.7.1987, c. 1-4.
36. Bn. (II), 13.12.2005.
37. Bn. (I), 9.3.2010.
38. *Ibid.*, 15.3.2010.
39. *Ibid.*, 23.4.2010 and 28.4.2010.
40. Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 24<sup>th</sup> Edn., pp. 198-99.
41. Bn. (I), 15.11.1976.
42. Bn. (II), 23.12.2005.
43. *Ibid.*, 21.3.2006.
44. HB, 2010, para. 2.2(i).

45. HB, 2010, para. 2.2(ii).
46. *Ibid.*, para. 2.2(iii).
47. *Ibid.*, para. 2.2(iv).
48. *Ibid.*, para. 2.2(v).
49. *Ibid.*, para. 2.4(viii).
50. *Ibid.*, para. 2.4(ix).
51. *Ibid.*, para. 2.2(viii).
52. *Ibid.*, para. 2.2(ix).
53. R.S. Deb., 25.2.1970, c. 123.
54. *Ibid.*, 26.2.1970, c.141-42.
55. HB, 2010, paras. 2.2(vi) and (vii).
56. *Ibid.*, paras. 2.2(x), (xi) and (xii).
57. R.S. Deb., 29.7.1969, c. 1452.
58. *Ibid.*, 1.5.1968, c. 620-21; and 2.5.1968, c. 777.
59. *Ibid.*, 14.8.1968, c. 3388-90.
60. *Ibid.*, 19.8.1968, c. 3477.
61. *Ibid.*, 16.12.1981, c. 130-31.
62. *Ibid.*, 11.3.1986, c. 266.
63. *Ibid.*, 12.3.1986, c. 121-22.
64. F. No. 41/1/92-L.
65. HB, 2010, para. 2.3(i).
66. *Ibid.*, paras. 2.3 (iii), (vi) and (vii).
67. *Ibid.*, para. 2.3(xxii).
68. R.S. Deb., 13.12.1974, c. 129.
69. R. 235(iii) and HB, 2010 para. 2.3(ii).
70. *Ibid.*, 235(iv) and *Ibid.*, para. 2.3(iv).
71. C.S. Deb., 9.8.1952, c. 3622.
72. HB, 2010, para. 2.3(v).
73. See Lakshmi N. Menon's article published in "Dr. Sarvepalli Radhakrishnan-A Commemorative Volume", Rajya Sabha Secretariat, 1988. p. 70.
74. R.S. Deb., 28.4.1981, c. 26.
75. *Ibid.*, 24.3.1982, c. 164-65.
76. *Ibid.*, 9.12.1985, c. 17.
77. R. 235(i) and HB, 2010, para. 2.3(viii).
78. R.S. Deb., 28.2.1981, c. 16.
79. R. 235(ii) and (ix).
80. R. 235(viii).
81. HB, 2010, para. 2.3(ix).
82. C.S. Deb., 17.7.1952, c. 1379-80.
83. HB, 2010, para. 2.3(xxiv).
84. *Ibid.*, para. 2.3(XXXII).
85. R.S. Deb., 19.3.1965, c. 3720.
86. *Ibid.*, 20.3.1975, c. 161.
87. *Ibid.*, 24.7.1974, c. 205-06.
88. HB, 2010, para. 2.3(x).
89. *Ibid.*, para. 2.3(xv).
90. *Ibid.*, para. 2.3(xvi).
91. R.S. Deb., 11.3.1969, c. 3151.
92. HB, 2010, para. 2.3(xxii).
93. R.S. Deb., 27.4.1955, c. 6279 and 6300.
94. HB, 2010, para. 2.3(xxvii).
95. *Ibid.*, para. 2.3(xxix).
96. *Ibid.*, para. 2.3(XXXVIII).
97. *Ibid.*, para. 2.3(XXXIX).

- 
98. Bn. (II), 14.2.2013.
99. HB, 2010, para. 5.10(xxv).
100. R.S. Deb., 24.1.1980, c. 17.
101. HB, 2010, para. 2.3(xxxv).
102. *Ibid.*, para. 2.3(xxxvi).
103. Bn. (II), 25.8.2010.
104. HB, 2010, para. 2.3(xl).
105. R.S. Deb., 21.8.1968, c. 3866.
106. *Ibid.*, 23.8.1968, c. 4256.
107. HB, 2010, para. 2.3(xli).
108. R.S. Deb., 13.9.1963, c. 4045.
109. HB, 2010, para. 2.3(xlii).
110. *Ibid.*, paras. 2.2(xiii) and (xiv).
111. R.S. Deb., 28.7.1983, c. 199.
112. *Ibid.*, 17.8.1984, c. 3.
113. *Ibid.*, 6.5.1985, c. 190-92.
114. *Ibid.*, 21.5.1990, c. 186-92 and 197-98.
115. *Ibid.*, 7.5.1986, c. 141.
116. *Ibid.*, 23.11.1981, c. 221-23.
117. *Ibid.*, 28.4.1983, c. 295.
118. *Ibid.*, 26.7.1983, c. 9.
119. *Ibid.*, 20.12.1983, c. 233-34
120. *Ibid.*, 8.8.1977, c. 10, 82; and 9.8.1977, c. 26.
121. *Ibid.*, 24.2.1984, c. 294-95.
122. *Ibid.*, 14.5.1986, c. 8.
123. *Ibid.*, 6.8.1985, c. 299.
124. *Ibid.*, 24.7.1986, c. 188.
125. *Ibid.*, 25.7.1986, c. 163-64.
126. *Ibid.*, 5.5.1989, c. 327.
127. Bn. (II), 28.7.1995.
128. R.S. Deb., 29.8.1972, c. 115-16.
129. *Ibid.*, 23.5.1957, c. 1286.
130. *Ibid.*, 18.3.1961, c. 3434.
131. *Ibid.*, 28.9.1955, c. 5037.
132. R. 236.
133. HB, 2010, para. 2.7.
134. Bn. (II), 23.7.2009.
135. R. 237.
136. R.S. Deb., 17.3.1955, c. 2226.
137. *Ibid.*, 28.4.1964, c. 847.
138. R. 238(i) and HB, 2010, para. 2.3(xxiii)(a).
139. R. 238(ii) and HB, 2010, para. 2.3(xxiii)(b).
140. R.S. Deb., 31.8.1966, c. 4844-47.
141. *Ibid.*, 1.9.1966, c. 5045-5101.
142. *Ibid.*, 2.9.1966, c. 5267.
143. *Ibid.*, 7.9.1966, c. 5969-70.
144. R. 238(iii) and HB, 2010, para. 2.3(xxiii)(c).
145. R.S. Deb., 23.6.1962, c. 1741-42.
146. *Ibid.*, 25.7.1966, c. 113-24.
147. *Ibid.*, 27.3.1980, c. 375-78.
148. R. 238(iv) and HB, 2010, para. 2.3(xxiii)(d).
149. R. 238(v) and HB, 2010, para. 2.3(xxiii)(h).
150. R.S. Deb., 22.12.1954, c. 3091-93.
151. C.S. Deb., 7.5.1953, c. 5175-78.

152. Bn. (II), 18.8.1989.
153. F. No. 35/31/89-L.
154. R. 238(vi), HB, 2010, para. 2.3(xxiii)(e) and R.S. Deb., 7.6.1971, c. 23.
155. R.S. Deb., 12.5.1970, c. 162-69.
156. *Ibid.*, 7.6.1971, c. 23.
157. R. 238(vii) and HB, 2010, para. 2.3(xxiii)(f).
158. R.S. Deb., 22.8.1961, c. 1243-44.
159. *Ibid.*, 21.7.1971, c. 104-07.
160. R. 238(viii) and HB, 2010, para. 2.3(xxiii)(g).
161. HB, 2010, para. 2.3(xiii).
162. *Ibid.*, para. 2.3(xiv).
163. *Ibid.*, para. 2.3(xx).
164. R. 261, 262 and HB, 2010, para. 2.3(xxx).
165. R.S. Deb., 4.8.1980, c. 227-28.
166. *Ibid.* 21.8.1990, c. 269-76
167. *Ibid.*, 27.3.1995, c. 258.
168. *Ibid.*, 8.1.1991, c. 369-73.
169. R. 238A.
170. R.S. Deb., 27.2.1973, c. 127; and 28. 2.1973, c. 211.
171. R. 239.
172. HB, 2010, paras. 2.3(xxiii) and (xviii).
173. R. 240.
174. R.S. Deb., 21.8.1974, c. 128-35.
175. R. 243 and 235(v).
176. HB, 2010, para. 2.3(xi).
177. R.S. Deb., 12.2.1964, c. 218-19; and 25.7.1989, c. 2.
178. *Ibid.*, 23.7.1980, c. 14-16.
179. R. 294.
180. R. 293.
181. 3 Rpt., COP.
182. 28 Rpt., COP Mts., 9.4.1991.
183. R.S. Deb., 30.12.1993, c. 226, 250.
184. *Ibid.*, 31.8.2001, c. 1-2.
185. 2 Rpt. Ethics Committee, Rajya Sabha, presented on 13.12.1999 and adopted on 15.12.1999.
186. Code of Conduct for Members of Rajya Sabha, 2005 and HB, 2010, para. 2.4; see also 1 and 4 Rpts. of Ethics Committee, Rajya Sabha.

## CHAPTER–10

### **Political Complexion of Rajya Sabha**

#### **Chairman's Direction**

The general principles on which recognition can be given to political parties or groups for their parliamentary functioning in the Rajya Sabha have been laid down in the following Directions issued by the Chairman in 1980 in pursuance of rule 266:

(1) The Chairman may recognise an association of members as a parliamentary party or a parliamentary group for the purpose of functioning in the Council and his decision in the matter shall be final.

(2) In recognising a Parliamentary Party or a Parliamentary Group the Chairman shall take into consideration the following principles:

(i) An association of members who propose to form a parliamentary party—

(a) shall have a distinct ideology and a common programme of parliamentary work on which they have been elected to the Council;

(b) shall have an organisation both inside and outside the Council; and

(c) shall have at least a strength equal to the quorum fixed to constitute a sitting of the Council, that is, one-tenth of the total number of members of the Council.

(ii) An association of members to form a parliamentary group shall satisfy the conditions specified in parts (a) and (b) of clause (i) and shall have at least a strength of fifteen Members.<sup>1</sup>

Although till 1980, there was no Direction issued by the Chairman for recognition of a political party, for all practical purposes the principles embodied in the above Direction were being followed in the Rajya Sabha. For instance, even though there were “Parties” in opposition right from the inception of the Rajya Sabha, they were recognised as “Groups” and not “Parties” as their strength was less than the quorum of the House and the opposition parties and the Leader of the Opposition as such were not recognised until the Congress split in 1969, when for the first time the splinter group which fulfilled all the requirements laid down in the Direction

was recognised as the opposition party. In subsequent cases also the same criteria as laid down in the Direction for recognition of a Party was followed.

While the matter of issue of the Direction quoted above was under consideration, a point was considered in the context of section 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, whether such a Direction could conflict with the provisions of that section. The Act of 1977 as well as the Rules of Procedure did not define a “party”. It could, therefore, be argued that in the absence of statutory authority it was beyond the powers of the Presiding Officer to lay down criteria for recognition of a party as was sought to be done by the Direction and that the Presiding Officer was bound by the Act of 1977 to recognise as the Leader of the Opposition a member of the House who was the leader of a party in opposition to the Government having the greatest numerical strength even though it might not be equal to the quorum of the House. This argument was countered by pointing out that if it was carried to its logical conclusion, it would mean that even if a party in opposition consisted of only two members (the other members in the opposition being independent members) the Presiding Officer had to recognise the leader of this two-member party as the Leader of the Opposition for the purpose of the Act of 1977, which proposition would appear to be untenable. The criterion of quorum was based on the well-recognised parliamentary principle that the party in Opposition should be strong enough to form an alternate Government or at least to hold the House for transaction of business. It was, therefore, felt that even though the expression “party” had not been defined, the Act of 1977 did not prohibit or prevent the Presiding Officer from laying down the criteria for recognition of a party/group. The Ministry of Law which was consulted informally agreed with this view.<sup>2</sup>

In certain cases, even where the membership of an association of members is less than fifteen, it may be given the nomenclature of a group, under the orders of the Chairman, for the limited purpose of functioning in the House, without according it a formal recognition as such. The general practice is that a group which has a strength of five and more is recognised as a Parliamentary Group for functioning in the House. Members belonging to different political parties and unattached members who form an association with distinctive designation may also be termed as a Parliamentary Group for the purpose of functioning in the House, namely, allocation of time for participation in debates and allotment of contiguous seats in the Chamber.

In 1983, twenty-two members belonging to different political parties formed a “United Association of Members (UAM)” which was given recognition.<sup>3</sup> In 1990, six members belonging to different political parties formed a “United Parliamentary Group (UPG).<sup>4</sup> Subsequently, the strength of the Group went on changing from time to time.

For the purpose of getting recognition, members concerned have to make a formal request to the Chairman with the signatures of all the members concerned.

The two words ‘political party’ have not been mentioned in the Constitution till the Constitution (Fifty-second Amendment) Act, 1985 came into force. It became the Tenth Schedule to the Constitution and it mentioned political party and its scope and thereby providing constitutional sanctity to it.

Therefore, after the coming into force of the Tenth Schedule to the Constitution of India with effect from 1 March 1985, and the Representation of the People (Amendment) Act, 1988 (which included section 29A providing for compulsory registration of all political parties), the concept of recognition of Parliamentary Parties/Groups has materially changed *vis-a-vis* the recognition of Parliamentary Party/Group by the Chairman, Rajya Sabha on the basis of the numerical strength of a party in the House. For the purpose of the Tenth Schedule, all the members of the Rajya Sabha belonging to a particular political party would be deemed to belong to the Legislature Party of that party in the House irrespective of the numerical strength of that Legislature Party. Even a lone member of a political party in the House would, therefore, have been a Legislature Party by that name.

### **Membership of a political party under the Tenth Schedule to the Constitution**

The Constitution (Fifty-second Amendment) Act, 1985, which came into force with effect from 1 March 1985, contains certain provisions in so far as the membership of a political party is concerned. An elected or nominated member belonging to any political party becomes disqualified from being a member of the House if he voluntarily gives up his membership of such political party.<sup>5</sup> A nominated member can join a political party before the expiry of six months from the date on which he takes his seat in the House. If he joins a party after that period or having become a member within the stipulated time voluntarily gives up the membership thereafter, he becomes disqualified.<sup>6</sup> An independent member (*i.e.*, a member who has been elected as such otherwise than as a candidate set up by any political party) becomes disqualified if he joins any political party after such election.<sup>7</sup>

The disqualification provision did not apply if a member claimed that a split had occurred in his original political party and the strength of the faction which had arisen as a result of such a split was not less than one-third of the members of the legislature party. Consequent upon the amendment to the Tenth Schedule *vide* the Constitution (Ninety-first Amendment) Act, 2003, this provision contained in paragraph 3 of the Schedule stands omitted.<sup>8</sup>

The disqualification provision also does not apply if a member's original political party merges with another political party and the member becomes a member of such other political party or of a new political party formed after such merger, provided that the strength of the group merging is not less than two-thirds of the members of the original legislature party.<sup>9</sup> If the member claims that he and any other members of his original political party have not accepted the merger and opted to function as a separate group, he/she and such other members do not incur disqualification.<sup>10</sup>

The Constitution (Ninety-first Amendment) Act, 2003 has also inserted a new article 361B into the Constitution which provides that a member who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.<sup>11</sup>

The instances of cases over the years in the Rajya Sabha under the Tenth Schedule to the Constitution of India are as follows:

#### *Disqualification*

In the year 1989, Shri Mufti Mohamad Sayeed, an elected member of the Rajya Sabha from the State of Jammu and Kashmir, became disqualified from being a member of the Rajya Sabha in terms of paragraph 2(1)(a) of the Tenth Schedule to the Constitution of India for voluntarily giving up his membership of Congress (I)—his original political party.<sup>12</sup>

In the same year, Shri Satya Pal Malik, an elected member of the Rajya Sabha from the State of Uttar Pradesh, also became disqualified from being a member of the Rajya Sabha for voluntarily giving up his membership of Congress (I)—his original political party.<sup>13</sup>

In the year 2008, Shri Jai Narain Prasad Nishad, an elected member of the Rajya Sabha from the State of Bihar, became disqualified from being a member of the Rajya Sabha for voluntarily giving up his membership of the Bharatiya Janata Party (BJP)—his original political party.<sup>14</sup>

In the same year, Shri Isam Singh, an elected member of the Rajya Sabha from the State of Uttar Pradesh, became disqualified from being a member of the Rajya Sabha for voluntarily giving up his membership of the Bahujan Samaj Party (BSP)—his original political party.<sup>15</sup>

#### *Merger*

In the year 1986, the Congress (S) Party, which had a strength of 2 members in the House merged with Congress (I) Party in the Rajya Sabha in terms of para 4 of the Tenth Schedule to the Constitution.<sup>16</sup>

---

In the year 1988, the Janata (G) that had a strength of one member and Lok Dal (A) Party, which had a strength of 4 members in the House merged and formed a new party, namely Janata Party in the Rajya Sabha.<sup>17</sup>

In the year 1989, the Janata Party which had a strength of 17 members and Lok Dal that had a strength of 5 members in the House merged to form a new Party in the Rajya Sabha, namely, Janata Dal.<sup>18</sup>

In the year 1990, Shri M. Vincent, a lone member of A.I.A.D.M.K.-I merged his Party with A.I.A.D.M.K.-II Party in the Rajya Sabha.<sup>19</sup>

In the year 1991, Shri Thomas Kuthiravattom, a lone member of Kerala Congress Party merged his Party with Janata Dal (S) Party in the Rajya Sabha.<sup>20</sup>

In the year 1992, Kumari Chandrika Premji Kenia, a lone member of Shiv Sena Party (Chhagan Bhujbal Group) merged her Party with Congress (I) Party in the Rajya Sabha.<sup>21</sup>

In the year 1992, Shri David Ledger, a lone member of the Natun Asom Gana Parishad merged his Party with Congress (I) Party in the Rajya Sabha.<sup>22</sup>

In the year 1996, Shrimati Renuka Chowdhury, a lone member of Telugu Desam Party-II merged her Party with Telugu Desam (Naidu) Group in the Rajya Sabha.<sup>23</sup>

In the year 1996, Shri Yerra Narayanswamy, a lone member of Telugu Desam Party-I merged his Party with Telugu Desam (Naidu) Group in the Rajya Sabha.<sup>24</sup>

In the year 1998, the A.I.A.D.M.K.-III Group in the Rajya Sabha that had a strength of two members in Rajya Sabha merged with A.I.A.D.M.K.-I Group in the Rajya Sabha.<sup>25</sup>

In the year 1998, Dr. D. Venkateshwar Rao, a lone member of Telugu Desam-I Party merged his Party with Bharatiya Janata Party in the Rajya Sabha.<sup>26</sup>

In the year 1999, Shri Suresh Kalmadi, a lone member of Maharashtra Vikas Aghadi Party merged his Party with Indian National Congress Party in the Rajya Sabha.<sup>27</sup>

In the year 2001, Shri R. K. Anand, a lone member of Jharkhand Mukti Morcha Party merged his Party with Indian National Congress Party in the Rajya Sabha.<sup>28</sup>

In the year 2003, the Tamil Manila Congress (Moopanar) Group that had a strength of two members in the House merged with the Indian National Congress Party in the Rajya Sabha.<sup>29</sup>

In the year 2010, Dr. Kanwar Deep Singh, a lone member of the Jharkhand Mukti Morcha Party merged his party with the All India Trinamool Congress Party in the Rajya Sabha.<sup>30</sup>

In the year 2014, Shri Ram Kripal Yadav, a lone member of the Rashtriya Janata Dal Party merged his party with the Bharatiya Janata Party in the Rajya Sabha.<sup>31</sup>

#### *Splits*

In the year 1988, the A.I.A.D.M.K. Party, that had a strength of 11 members in the House, split into two groups and redesignated by Chairman, Rajya Sabha as A.I.A.D.M.K.-I (with the strength of five members) and A.I.A.D.M.K.-II (with the strength of 6 members), for the floor functioning.<sup>32</sup>

In the year 1990, the Janata Dal, that had a strength of 39 members in the House, had a split in the Party and a new faction named Janata Dal (Socialist) consisting of 15 members was recognised by the Chairman, Rajya Sabha for the floor functioning.<sup>33</sup>

In the year 1991, the Asom Gana Parishad Party, that had a strength of 4 members had a split in the Party and a new faction named Natun Asom Gana Parishad consisting of 2 members was recognised by Chairman, Rajya Sabha for floor functioning.<sup>34</sup>

In the year 1992, the Janata Party, that had a strength of 2 members, had a split and a new faction named Samajwadi Party was recognised by the Chairman, Rajya Sabha for floor functioning.<sup>35</sup>

In the year 1994, the Janata Party (Socialist) that had a strength of 8 members, had a split in the Party and a new faction named Rashtriya Janata Dal consisting of 3 members was recognised by the Chairman, Rajya Sabha for floor functioning.<sup>36</sup>

In the year 1994, the Telugu Desam Party, that had a strength of 3 members had a split and the Chairman, Rajya Sabha redesignated each faction as Telugu Desam-I (with one member—Shrimati Renuka Chowdhury) and Telugu Desam-II (with two members) for floor functioning.<sup>37</sup>

In the year 1997, the A.I.A.D.M.K. Party that had a strength of 14 members had a split and the Chairman, Rajya Sabha redesignated each faction as A.I.A.D.M.K.-I and A.I.A.D.M.K.-II (with 7 members each) for floor functioning.<sup>38</sup>

In the year 1997, the Janata Dal, that had a strength of 13 members in the Council, had a split in the Party and a new faction named Rashtriya Janata Dal consisting of 5 members was recognised by the Chairman, Rajya Sabha for floor functioning.<sup>39</sup>

In the year 1997, the A.I.A.D.M.K.-II faction, which had a strength of 5 members at that time, again had a split and a new faction A.I.A.D.M.K.-III, consisting of 2 members was recognised by the Chairman, Rajya Sabha for floor functioning.<sup>40</sup>

In the year 1998, the Janata Dal, that had a strength of 13 members in the House, again had a split in the Party and a new faction named Biju Janata Dal consisting of 5 members was recognised by the Chairman, Rajya Sabha for floor functioning.<sup>41</sup>

#### **Expulsion and its effect on the status of a member**

The Constitution (Fifty-second Amendment) Act, 1985 does not make any provision for meeting a situation when a member is expelled by his/her party. When the Constitution (Fifty-second Amendment) Bill was introduced in the Lok Sabha, there was a provision for disqualifying an expelled member.<sup>42</sup> However, on reconsideration, it was felt that expulsion being a political matter should be left out of the scope of the proposed law. Hence, that provision was deleted at the passing stage of the Bill in the Lok Sabha. It will be seen from this background that in the case of an expelled member from a political party by which he was elected there is no adverse effect on the status of that member in the House.

However, for the purposes of record, members who have been expelled from their original political parties are shown as members without party affiliation (Independent). For instance, Shri Pranab Mukherjee,<sup>43</sup> Shri Vishwanath Pratap Singh,<sup>44</sup> Shri P. Upendra,<sup>45</sup> Shri Chimanbhai Mehta and Shri V. Gopalsamy,<sup>46</sup> members, who were expelled from their original political parties, as per communications received from the Leaders/Whips of the concerned parties, were shown as Independent in the Rajya Sabha Secretariat records and the concerned members were informed accordingly. However, in the case of expulsion of three members belonging to Lok Dal (Shri S.P. Malviya, Shri Rashid Masood and Shri Ajit Singh), since they contested the expulsion and claimed a split in the party, the two factions of Lok Dal were designated as Lok Dal (I) and Lok Dal (II) for the limited purpose of functioning in the House.<sup>47</sup> But in the case of expulsion of three members belonging to R.J.D. namely, Shri Ranjan Prasad Yadav, Ven'ble Dhammaviryo and Shri Mahendra Prasad, in May 2001, it was decided to show them as “Members without party-affiliation” and they were shown under the heading “Independents and Others” in the records of Rajya Sabha Secretariat and the concerned members were informed accordingly.<sup>48</sup>

Similarly, in the cases of expulsion of Shri Isam Singh from the Bahujan Samaj Party, to which he belonged, in September 2006;<sup>49</sup> Shri Amar Singh from the Samajwadi Party, in February 2010;<sup>50</sup> Shri Pyarimohan Mohapatra from the Biju Janata Dal, in March 2013;<sup>51</sup> and

Shri Ram Jethmalani from the Bharatiya Janata Party in September 2013<sup>52</sup>, it was decided to show them as “Member without party affiliation” and they were shown under the heading “Independents and Others” in the records of the Rajya Sabha Secretariat and the concerned members were informed accordingly.

On the issue of expulsion of a member from his political party, a question was posed to the Attorney-General as to whether a member who was declared “Unattached” by the Speaker consequent upon his expulsion from the original political party was free to form a new party or join another party without incurring disqualification. The opinion given by the Attorney-General was as follows:

The Tenth Schedule introduced by the Constitution (Fifty-second Amendment) Act provides for disqualification on ground of defection in para 2. None of these provisions provides that upon expulsion from the original political party, a member who is declared unattached incurs any disqualification notwithstanding the fact that he forms a new party or joins another party. However, on that ground alone an expelled member who forms a new party or joins another party cannot be held not to incur disqualification in terms of the Constitution (Fifty-second Amendment) Act.

It is true that an expelled member ceases to be a member of that party to which he belonged but that is for the purpose of party discipline. In the interest of democracy the matter should be approached from a broader perspective. A person belonging to a particular political party must owe allegiance to that party. He is bound by the discipline of that party. Not only is there a moral and political compulsion but so long as he belongs to that party, he has a duty to see that nothing he does prejudices in any manner the effective functioning of that party as a political party.

The provisions for disqualification have to be strictly construed. A member cannot voluntarily give up membership of his political party except under peril of incurring constitutional disqualification under para 2(a) of the Tenth Schedule. It may be possible to interpret the relevant provisions that an expelled member of a party, who does not incur disqualification because he did not voluntarily give up membership of his original political party though he suffers expulsion, cannot any more belong to the political party from which he was expelled. So, unless he can bring himself within the scope of a split of the original political party which group consists of not less than one-third of the members of such legislature party he cannot belong to any other party. While he can, therefore, continue to be a member but is declared unattached, he cannot on the basis of the expulsion from the original political party form a new party or join a new party without incurring disqualification. An elected member of a House who has been elected otherwise than as a candidate set up by any

political party, *i.e.*, who was elected as an independent candidate, will incur disqualification for being a member of the House if he joins any political party after such an election. If so, an expelled member from a political party cannot stand on a better footing than an independent member. While he will not incur disqualification as he has not voluntarily given up his membership but has been expelled, he will nevertheless incur disqualification if when functioning as an unattached member he forms a new party or joins another party. However, it is not as if, the contrary position cannot be argued at all.<sup>53</sup>

In this connection, the Supreme Court has observed:

If a person belonging to a political party that had set him up as a candidate, gets elected to the House and thereafter joins another political party for whatever reasons, either because of his expulsion from the party or otherwise, he voluntarily gives up his membership of the political party and incurs the disqualification. Being treated as ‘unattached’ is a matter of mere convenience outside the Tenth Schedule and does not alter the fact to be assumed under the explanation to paragraph 2(1). Such an arrangement and labeling has no legal bearing so far as the Tenth Schedule is concerned. The deemed fiction in explanation (a) in para 2(1) of Sch. 10 must be given full effect for otherwise the expelled member would escape the rigour of the law which was intended to curb the evil of defections which had polluted our democratic polity.

...Paragraph 1(b) in referring to the Legislative Party in relation to a member of a House belonging to any political party, refers to the provisions of paragraphs 2, 3 and 4, as the case may be, to mean the group consisting of all members of that House for the time being belonging to that political party in accordance with the said provisions, namely, paragraphs 2, 3 and 4, as the case may be. Paragraph 2(1) read with the explanation clearly points out that an elected member shall continue to belong to that political party by which he was set up as a candidate for election as such member. This is so notwithstanding that he was thrown out or expelled from that party. That is a matter between the member and his party and has nothing to do so far as deemed clause in the Tenth Schedule is concerned. The action of a political party *qua* its member has no significance and cannot impinge on the fiction of law under the Tenth Schedule.<sup>54</sup>

The issue of disqualification under the Tenth Schedule of the Constitution can be referred to the Chairman by a member. As per the law established by the Supreme Court of India in 2013 even non-legislator can initiate disqualification proceedings against a legislator for deserting the party on whose ticket he/she was elected and joining another political party. The details regarding this have been dealt with in Chapter 3 on ‘Membership of Rajya Sabha’.

### Facilities on recognition

A parliamentary party or group gets certain facilities. An association of members which does not fulfill the conditions for recognition as parliamentary party or group may also be granted some facilities.

A recognised parliamentary party is generally granted the following facilities:

(i) Allotment of blocks of seats in the House in proportion to the strength of the party and the total number of seats available in the Chamber.

(ii) *Allotment of accommodation in the Parliament House for parliamentary work of the party/group:* This is done by the Speaker, Lok Sabha.

A point was raised in the Rajya Sabha by some members regarding the sealing of Parliamentary Party Offices of Congress (I), Lok Dal and DMK in the Parliament House. The Chairman observed, *inter alia*, “allotment of accommodation in Parliament House is under the authority of the Speaker.” The Chairman also stated that he had taken up the matter with the Speaker and was forwarding the concerned member’s letter in the matter to the Speaker.<sup>55</sup>

(iii) *Allotment of committee rooms or other available accommodation for holding party meetings:* This is also regulated by the Speaker, Lok Sabha, so far as the Central Hall and committee rooms which are under the administrative jurisdiction of the Lok Sabha Secretariat are concerned. As regards the committee rooms which are under the administrative jurisdiction of the Rajya Sabha Secretariat, they are made available by the Secretariat on written requests from parties/groups for holding party or other meetings connected with parliamentary work.

(iv) *Supply of parliamentary papers:* Parliamentary papers such as questions list, list of business, etc. are supplied to a party/group on a regular basis.

(v) *Nomination to a Parliamentary Committee:* With a view to nominating members on Parliamentary Committees, names are obtained from the leaders of parties in the House, for consideration of the Chairman. While it is the prerogative of the Chairman to nominate members to the Parliamentary Committees, recommendations made by the leaders concerned are normally accepted by the Chairman. The representation of parties/groups on Committees where members are to be nominated by the Chairman is more or less in proportion to the respective strength of the parties/groups in the House. Usually, when the Committees are to be reconstituted annually, the Leader of the House convenes an informal meeting of leaders of various parties/groups to decide allocation of seats

in the various Committees and their Chairmanship amongst them, which facilitates the process of nomination by the Chairman.

(vi) *Nomination to various Bodies:* There are Committees, Councils, Boards, etc. which are constituted by the Government. Members of both the Houses are also represented on them. Members of the Rajya Sabha thereon are nominated by the Chairman, in consultation with the leaders of parties/groups on request from the Minister concerned.

(vii) *Nomination to parliamentary delegations going abroad:* Members of the Rajya Sabha who are to form part of a delegation going abroad are selected by the Chairman in consultation with the Minister of Parliamentary Affairs and leaders of opposition parties/groups in the Rajya Sabha. Generally, members are selected party-wise for inclusion in the delegations on rotation and for this purpose a roster is maintained to decide annual quota of allocation amongst various parties/groups in proportion to their strength in the House.

(viii) *List of speakers:* Leaders of parties/groups are usually given preference in the selection of speakers to participate in the deliberations of the House. The Leaders also supply names of members from their parties/groups who may be called to speak in debates by the Chair.

(ix) *Consultation in the arrangement of business:* As and when necessary, leaders of parties/groups are consulted on important matters coming up before the House or whenever a situation arises in the House in respect of any matter required to be defused. On a number of occasions, consultations have taken place in informal meetings of the Chairman/ Deputy Chairman with the leaders of parties/groups on matters of procedure in the House:

At a meeting held by the Chairman with the leaders of various parties/groups on 12 November 1962, it was decided to limit the number of starred and unstarred questions to five per member per sitting and to regroup Ministries in four instead of existing three for answering questions.<sup>56</sup> Later, at a meeting held by the Minister of Parliamentary Affairs with leaders of various parties/groups, it was agreed unanimously that with effect from 26 November 1962, Question Hour might be suspended (during the 41<sup>st</sup> Session). The Minister made an announcement accordingly.<sup>57</sup>

The Chairman held a meeting of leaders of various parties/groups in the Rajya Sabha in 1965 to consider a proposal to appoint a Committee to scrutinise Budget estimates of the Rajya Sabha.<sup>58</sup>

At a meeting of leaders of various parties/groups held on 23 December 1969, which was presided over by the Chairman, a decision was taken to replace the then existing form of summons to the members by the present one.<sup>59</sup>

At the suggestion of the Deputy Chairman, a meeting of leaders with the Chairman was held on 5 December 1974, to consider the demand made in the House for laying the CBI Report on Pondicherry Licence Case.<sup>60</sup>

The Chairman held two meetings with leaders of parties on 8 and 27 March 1979, regarding procedure to be followed in the matter of use of languages other than English and Hindi during Question Hour.<sup>61</sup>

At meetings held on 3 and 21 August 1970 and 19 June 1980, the practice and procedure regarding calling attention and special mention were considered and decisions taken thereon. At another meeting held on 15 September 1981, it was agreed that the Minister would reply at the end to all the clarifications on a calling attention.<sup>62</sup>

A meeting of leaders of various parties/groups was held by the Chairman to rationalise Question Hour.<sup>63</sup>

A meeting of leaders was held to decide about the playing of National Anthem/National Song at the commencement and the conclusion of the session respectively.<sup>64</sup>

A meeting of leaders was held on 21 August 1995, to decide about the mode of discussion of the situation arising out of the railway accident between Kalindi Express and Purushottam Express on the previous night.<sup>65</sup>

A meeting of leaders of various parties/groups held on 20 March 1997 agreed to the introduction, consideration and passing of the Aquaculture Authority Bill, 1997 on the same day in view of the urgency for the said legislation.<sup>66</sup>

A meeting of leaders of various parties/groups was held on 29 November 2012, to decide on the admissibility of a discussion on the Motion on FDI in Multi-brand Retail Sector to facilitate smooth functioning of the Parliament. It was decided that discussion may be held after conclusion of the said discussion in the Lok Sabha.<sup>67</sup>

A meeting of leaders of various parties/groups was held on 16 December 2013 on the passing of the Lokpal and Lokayuktas Bill, 2011 on 17 December 2013.<sup>68</sup>

A meeting of leaders of various parties/groups with the Hon'ble Chairman was held at 11.30 a.m. on the 28 July 2015, wherein it was decided that there will be no sitting of the Rajya Sabha on the 29 July 2015, to enable members to attend the funeral of former President of India, Dr. A.P.J. Abdul Kalam.<sup>69</sup>

(x) *Representation in the Business Advisory Committee:* All major parties/groups are represented in the Business Advisory Committee which allots time to various items of Government and other business to be transacted by the House. As the strength of the Committee is limited to eleven members including the Chairman and the Deputy Chairman, representatives of recognised groups which are not represented are invited to attend the meetings of this Committee.

(xi) *Allotment of a seat in the front row in the Central Hall:* The Lok Sabha Secretariat allots front row seats to leaders of recognised parties and groups having strength of five members and more in the Rajya Sabha on the occasion of the President's Address or other important functions.<sup>70</sup>

(xii) The leaders, deputy leaders and chief whips of recognised parties/groups in Parliament are generally granted the following telephone and secretarial facilities:

- (a) *Telephone Facilities:* Each leader, each deputy leader and each chief whip of a recognised party or group shall not be liable to make any payment in respect of the installation and rental of one telephone installed either at his office or residence in Delhi or New Delhi and he shall not be liable to make any payment in respect of any calls made from that telephone during his tenure as such leader, deputy leader and chief whip subject to his certifying that the calls were made in the discharge of his duties as such leader, deputy leader and chief whip. These calls are in addition to any free calls admissible to them as Members of Parliament.
- (b) *Secretarial Facilities:* Each leader, each deputy leader and each chief whip of a recognised party or group shall be entitled to get a stenographer in the grade of Private Secretary (Gr. III) for Secretarial assistance.<sup>71</sup>

However, telephone and secretarial facilities admissible under the Act are temporary and co-terminus with the tenure as the leader, deputy leader or chief whip of the recognised party or group.

Moreover, these facilities will not be provided to such leader, deputy leader or chief whip, as the case may be, who holds an office of Minister, Leader of the Opposition or any other officer having same facilities, set up by Government or local authority.

### **Changing party position in Rajya Sabha**

One-third members of the Rajya Sabha retire after every second year and biennial elections are held for filling the seats so vacated in accordance with the system of proportional representation by means of the single transferable vote. Party position in the Rajya Sabha undergoes changes from time to time not only due to biennial elections but also due to bye-elections.

Tables below indicate the strength of political parties which secured representation in the Rajya Sabha biennially since 1952.

TABLE-I  
PARTY-WISE BREAK-UP OF SEATS WON BY DIFFERENT POLITICAL PARTIES IN RAJYA SABHA  
(YEARS 1952-1976)

Sl.No.	Name of the Party	1952	1952-54	1954-56	1956-58	1958-60	1960-62	1962-64	1964-66	1966-68	1968-70	1970-72	1972-74	1974-76
1.	Congress	146	164	186	177	173	164	162	166	140	99	107	128	146
2.	Communist	9	10	9	11	8	8	8	8	8	9	—	—	—
3.	Socialist	6	6	3	8	11	—	—	—	—	—	—	—	—
4.	Jan Sangh	1	—	—	—	1	2	4	6	11	10	15	14	12
5.	Swatantra	—	—	—	—	1	8	11	10	16	13	11	9	—
6.	Kashmir National Conference	4	4	4	4	4	—	—	—	—	—	—	—	—
7.	KMPP	2	—	—	—	—	—	—	—	—	—	—	—	—
8.	Gantantra Parishad	—	2	2	3	4	—	—	—	—	—	—	—	—
9.	Samyukta Socialist	—	—	—	2	2	—	—	—	—	—	—	—	—
10.	P.S.P.	—	—	—	—	—	—	12	10	6	4	4	—	—
11.	Congress (O)	—	—	—	—	—	—	—	—	—	42	25	14	7
12.	S.S.P.	—	—	—	—	—	—	—	—	9	—	—	—	—
13.	C.P.I.	—	—	—	—	—	—	—	—	—	—	10	10	12
14.	S.P.	—	—	—	—	—	—	—	—	—	—	9	3	2
15.	C.P.I. (M)	—	—	—	—	—	—	—	—	—	—	8	8	5
16.	D.M.K.	—	—	—	—	—	—	—	—	—	—	7	10	9
17.	Independent	—	10	9	9	11	14	13	10	9	13	12	15	15
18.	Nominated	12	12	12	12	12	12	12	12	12	11	12	11	8
19.	Others	36	11	7	10	9	16	14	16	21	36	18	21	24
20.	Vacancies	—	—	—	—	—	—	4	4	10	3	9	—	4
TOTAL:		216	219	232	236	236	238	238	240	240	243	243	244	244

**TABLE-II**  
**PARTY-WISE BREAK-UP OF SEATS WON BY DIFFERENT POLITICAL PARTIES IN RAJYA SABHA**  
**(YEARS 1976–1996)**

Sl. No.	Name of the Party	1976-78	1978-80	1980-82	1982-84	1984-86	1986-88	1988-90	1990-92	1992-94	1994-96 (Oct. 30, 1996)
1.	Congress (O)	72	65	—	—	—	—	—	—	—	—
2.	Congress (I)	64	48	—	—	—	—	—	—	—	—
3.	B.J.P.	—	—	124	152	159	141	108	99	95	85
4.	C.P.I.	—	—	14	8	8	8	17	30	45	41
5.	C.P.I.(M)	11	9	5	5	6	3	3	6	6	5
6.	D.M.K.	5	8	14	13	12	15	17	16	14	15
7.	Janata	3	3	4	3	3	3	10	9	8	—
8.	A.I.A.D.M.K.	42	70	14	9	9	20	—	—	—	—
9.	Janata Dal	10	9	9	11	11	—	4	6	6	14
10.	Janata Dal (S)	—	—	—	—	—	—	38	27	28	23
11.	Telugu Desam	—	—	—	—	—	—	—	14	5	—
12.	Samajwadi Party	—	—	—	—	5	5	14	10	5	#8
13.	Independents	20	15	9	6	6	2	—	—	5	5
14.	Nominated	8	8	7	6	3	2	2	5	8	7
15.	Others	@8	#9	\$43	%21	€20	£28	*19	@@14	4	%1
16.	Vacancies	1	—	1	5	2	5	12	10	5	\$15
17.											26
TOTAL:		244	244	244	244	244	245	245	245	245	245

® Includes M.L., B.K.D., Jharkhand, P.W.P., R.P.P., K.M.B.  
 # Includes M.L., Akali Dal, R.P.I., P.W.D., R.S.P., Forward Bloc, P.C.  
 \$ Includes Forward Bloc, K.C., M.L., Lok Tantrik Lok Dal, Lok Dal, Congress (S), Akali Dal, R.P.I. (Khobragade), Socialist, U.D.F. (Nagaland), N.C., D.S.P., Indian National Cong. (Antony), R.S.P.  
 % Includes National Democratic Party, Lok Dal (C), National Conference, K.C., M.L., Janata (G), Congress (S), Nagaland National Democratic Party, Akali Dal, Janavadi, Lok Dal (C), F.B., R.S.P.  
 ℗ Includes A.I.A.D.M.K. (I), A.I.A.D.M.K. (II), A.G.P., R.S.P., Kerala Congress, Lok Dal, S.S.P.  
 \* Includes A.G.P., R.S.P., N.C., Janata, Lok Dal, Akali Dal, M.L., Kerala Congress, F.B., S.S.P., Indian Congress (S), Hill State People's Democratic Party, Shiv Sena.  
 @@ Includes R.S.P., N.C., Janata Party, Asom Gana Parishad, Natun Asom Gana Parishad, Shiv Sena, M.L., F.B., S.S.P., Hill State People's Democratic Party, Nagaland People's Council.  
 \*\* Includes Rashtriya Janta Dal, F.B., R.S.P., Asom Gana Parishad, Shiv Sena, M.L., Hill State People's Democratic Party, Nagaland People's Council, Sikkim Sangram Parishad, Bahujan Samaj Party.  
 # Chandrababu Naidu Group.  
 %% Four other nominated members belong to Congress (I), Asom Gana Parishad, R.S.P., Telugu Desam, Kerala Congress (M), Nagaland People's Council, Sikkim Sangram Parishad, Autonomous State Demand Committee.

\$\$ Includes Shiv Sena, M.L., F.B., Asom Gana Parishad, R.S.P., Telugu Desam, Kerala Congress (M), Nagaland People's Council, Sikkim Sangram Parishad, Autonomous State Demand Committee.

TABLE-III  
PARTY-WISE BREAK-UP OF SEATS WON BY DIFFERENT POLITICAL PARTIES IN RAJYA SABHA (YEARS 1996-2004)

Sl. No.	Name of the Party	1996-98	1998-2000	2000-2002	2002-2004 (January)
1.	I.N.C.	65	57	58	64
2.	B.J.P.	45	47	49	45
3.	C.P.I.(M)	17	15	14	12
4.	Telugu Desam	11	13	13	13
5.	Janata Dal	9	6	6	2
6.	Samajwadi Party	9	9	9	9
7.	Rashtriya Janata Dal	9	10	7	8
8.	C.P.I.	7	6	6	5
9.	D.M.K.	7	9	9	7
10.	A.I.A.D.M.K.	6	5	7	9
11.	Shiv Sena	5	5	5	5
12.	Shiromani Akali Dal	5	5	5	4
13.	Independents	13	13	%14 @13	11
14.	Nominated	@8	@@11	@@11	@@11
15.	Others	*29	**34	%30	33
16.	Vacancies	—	—	2	5
TOTAL:		245	245	245	245

© Three nominated members belong to INC and one nominated member belongs to Samajwadi Party.  
 \* Includes B.J.D., T.M.C., J&K-NC, M.L., F.B., A.G.P., A.I.A.D.M.K.-II, S.S.P., A.S.D.C., R.S.P., H.V.C., Kerala Congress, J.M.M., Maharashtra Vikas Aghadi, Haryana Lok Dal (Rashtriya), Haryana Vikas Party.

@@ One nominated member belongs to Samajwadi Party.  
 \*\* Includes B.S.P., B.J.D., T.M.C.(M), J&K-NC, R.S.P., M.L., A.G.P., J.M.M., I.N.L.D., F.B., A.S.D.C., H.V.C., Kerala Congress, Haryana Vikas Party, S.D.F., Samata Party, R.P.I., N.C.P., A.B.L.C., A.B.L.C.

% Includes three expelled members from R.J.D.  
 %% Includes B.S.P., B.J.D., J&K-NC, R.S.P., T.M.C.(M), M.L., I.N.L.D., A.G.P., F.B., A.S.D.C., H.V.C., Kerala Congress, Haryana Vikas Party, Samata Party, R.P.I., N.C.P., A.B.L.C., A.D.F.

◊ Includes one member without party affiliation.  
 ♦♦ Includes B.J.D., N.C.P., R.S.P., J&K-NC, A.G.P., H.V.C., A.I.F.B., K.C., R.P.I., A.B.L.C.P., A.I.I.C., M.N.F., P.D.P.

TABLE-IV  
PARTY-WISE BREAK-UP OF SEATS WON BY DIFFERENT POLITICAL PARTIES IN RAJYA SABHA (YEARS 2004-2014)

Sl. No.	Name of the Party	2004-2006	2006-2008	2008-2010	2010-2012	2012-2014
1.	I.N.C.	73	72	71	*71	*72
2.	B.J.P.	#47	#46	44	51	47
3.	Bahujan Samaj Party	6	6	12	18	15
4.	C.P.I.(M)	12	14	15	13	11
5.	A.I.T.C.	2	3	2	6	9
6.	Samajwadi Party	12	16	12	5	9
7.	Janata Dal (United)	2	5	7	8	9
8.	D.M.K.	2	3	4	7	7
9.	Biju Janata Dal	5	4	4	6	6
10.	Nationalist Congress Party	5	5	6	7	65
11.	A.I.A.D.M.K.	12	10	7	5	6
12.	Telugu Desam Party	9	6	2	4	4
13.	C.P.I.	-	3	5	5	2
14.	Rashtriya Janata Dal	8	6	4	4	2
15.	Independents	\$12	9	7	6	9
16.	Nominated	%4	%9	6	@8	@9
17.	Others	€26	¥25	24	z19	þ19
18.	Vacancies	8	3	13	2	3
<b>Total:</b>		<b>245</b>	<b>245</b>	<b>245</b>	<b>245</b>	<b>245</b>

\* Including two nominated Members.

# Including three nominated Members.

\$ Includes One Member without Party Affiliation.

% Excluding three nominated Members who belong to B.J.P.

® Excluding two nominated Members who belong to I.N.C.

© Includes I.N.L.D., S.S., R.S.P., M.L., S.A.D., Samata Party, J&K-NC, A.I.F.B., R.P.I., A.B.L.C., S.D.F., M.N.E., P.D.P., N.P.F., S.B.P., P.M.K., J.D(S).

¥ Includes S.S., S.A.D., A.I.F.B., J.D(S), M.L., R.S.P., Samata Party, J&K-NC, S.D.F., M.N.E., P.D.P., N.P.F., S.B.P., P.M.K., R.L.D., A.G.P.

¤ Includes S.S., S.A.D., A.G.P., J&K-NC, M.L., R.S.P., S.D.F., M.N.E., S.B.P., P.M.K., R.L.D., B.P.F., L.J.P., M.P(F), A.I.F.B.

z Includes S.S., S.A.D., A.G.P., J&K-NC, L.J.P., S.D.F., M.N.E., R.L.D., B.P.F., N.P.F., A.I.F.B., I.N.L.D.

þ Includes S.S., S.A.D., A.G.P., J&K-NC, L.J.P., S.D.F., M.N.E., B.P.F., N.P.F., A.I.F.B., I.N.L.D., J.M.M., K.C.(M).

## NOTES AND REFERENCES

1. Bn. (II), 7.6.1980.
2. F. No. RS. 19/80-T.
3. F. No. RS. 11/83-T.
4. F. No. RS. 11/90-T.
5. Tenth Schedule, Para. 2(1)(a) and Expln. (a).
6. *Ibid.*, para. 2(3).
7. *Ibid.*, para. 2(2).
8. The Constitution (Ninety-first Amendment) Act, 2003.
9. Tenth Schedule, Para. 4(1).
10. *Ibid.*
11. The Constitution (Ninety-first Amendment) Act, 2003.
12. F. No. RS. 46/89-T. and Bn. (II), 28.7.1989.
13. *Ibid.* and Bn. (II), 14.9.1989.
14. F. No. RS. 46/2005-T and Bn. (II), 26.3.2008
15. F. No. RS. 46/2007-T and Bn. (II), 4.7.2008
16. F. No. RS. 46/86-T.
17. F. No. RS. 46/88-T.
18. F. No. RS. 46/89-T.
19. F. No. RS. 46/90-T.
20. F. No. RS. 46/91-T.
21. F. No. RS. 46/92-T.
22. *Ibid.*
23. F. No. RS. 46/96-T.
24. *Ibid.*
25. F. No. RS. 46/98-T.
26. *Ibid.*
27. F. No. RS. 46/99-T.
28. F. No. RS. 46/2001-T.
29. *Ibid.*
30. F. No. RS. 46/2010-T
31. F. No. RS. 46/2014-T.
32. F. No. RS. 46/88-T.
33. F. No. RS. 46/90-T.
34. F. No. RS. 46/91-T.
35. F. No. RS. 46/92-T.
36. F. No. RS. 46/94-T.
37. *Ibid.*
38. F. No. RS. 46/97-T.
39. *Ibid.*
40. *Ibid.*
41. F. No. RS. 46/98-T.
42. Para. 2(1)(c) in Tenth Schedule proposed to be inserted by cl. 6 of the Bill.
43. F. No. RS. 11/86-T.
44. F. No. RS. 11/87-T.
45. F. No. RS. 11/92-T.
46. F. No. RS. 11/93-T.
47. F. No. RS. 11/87-T.
48. F. No. RS. 11/2002-T.
49. F. No. RS. 11/2006-T.
50. F. No. RS. 11/2010-T.
51. F. No. RS. 11/2012-T.
52. F. No. RS. 11/2013-T.

- 
53. *Journal of Parliamentary Information*, Lok Sabha Secretariat, March, 1989.
  54. *G. Viswanathan v. Speaker, T.N. Legislative Assembly*, AIR 1996, SC 1060.
  55. R.S. Deb., 9.12.1985, c 229-36.
  56. *Ibid.*, 13.11.1962, c. 857-58.
  57. *Ibid.*, 26.11.1962, c. 2206.
  58. *Ibid.*, 3.5.1966, c. 80.
  59. F. No. 1/4/69-L.
  60. R.S. Deb., 5.12.1974, c. 174-75 *and* 182.
  61. *Ibid.*, 28.3.1979, c. 18-19.
  62. Bn. (II), 23.5.1979; 3.7.1980; *and* R.S. Deb., 15.9.1981, c. 17-18.
  63. R.S. Deb., 28.7.1980. c. 1-3.
  64. *Ibid.*, 23.12.1992.
  65. *Ibid.*, 21.8.1995, c. 167.
  66. *Ibid.*, 20.3.1997.
  67. *Ibid.*, 30.11.2012 *and* 6.12.2012.
  68. *Ibid.*, 17.12.2012.
  69. Bn. (II), 28.07.2015.
  70. Kaul & Shakdher, *Practice and Procedure of Parliament*, 6<sup>th</sup> Edn., 2009, p. 389.
  71. The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 and rules made thereunder.

## CHAPTER–11

### **Sittings of Rajya Sabha**

#### **Fixation of sittings**

The Rajya Sabha sits on such days as the Chairman, having regard to the state of business of the Council, may from time to time direct.<sup>1</sup> Normally, the House sits on an average for about 80-90 days in a year. After a communication suggesting the dates for commencement and duration of the session is received from the Ministry of Parliamentary Affairs, the days on which the House is to sit for the transaction of Government and Private Members' Business are fixed under the orders of the Chairman.

On 6 March 1987 (the first part of the Budget session), some members raised a matter regarding progressive reduction in the duration of sittings of the Rajya Sabha. The issue arose in the context of the 141<sup>st</sup> Session which was scheduled to have only eighteen sittings. The Chairman closed the matter with the observation, "As far as I am concerned, I have decided that the Rajya Sabha will meet one week earlier than what is scheduled, when it meets after the recess for the second part of the Budget session."<sup>2</sup>

Accordingly, the House met for its 142<sup>nd</sup> Session on 13 April 1987.

#### **Provisional Calendar of sittings**

Alongwith the summons for a session, a Provisional Calendar of sittings showing the programme of sittings so fixed is issued to members. [However, when the Rajya Sabha was called for a brief two-day special session in 1977 (99<sup>th</sup> Session) and in 1991 (158<sup>th</sup> Session), no Provisional Calendar of sittings was issued]. The Provisional Calendar contains (i) the days on which the House is to sit; (ii) the days on which no sittings will be held either on account of holidays or otherwise; (iii) the nature of business to be transacted on each day of the sitting—whether Government or Private Members' (Bills or Resolutions); and (iv) allotment of days for answering questions pertaining to various Ministries of the Government which are classified into five groups to be taken up on specified days of the week.

During the period from 1952 to 1954, the Provisional Calendar of sittings used to indicate specific items of business *i.e.*, discussion on

President's Address, general discussion on the Budget, Private Members' Resolutions or Bills. Government business was indicated as Official Business.

The information concerning fixation of sittings alongwith information on various matters connected with the commencement of the session is also notified to members through a bulletin. Changes in the programme of sittings as shown in the Provisional Calendar of sittings and notified in the Bulletin may be made as and when necessary and announced by the Chairman in the House and notified in the bulletin.

After the Provisional Calendar of sittings for the 43<sup>rd</sup> Session was forwarded to the Ministry of Parliamentary Affairs, it was suggested that in order to give adequate time to members to discuss the Finance Bill, which was likely to be passed by the Lok Sabha on 23 April 1963, Friday, 26 April 1963, could be allotted for Government business and the Rajya Sabha could sit on Saturday, 27 April 1963, for private members' business. As the Chairman was abroad, his orders could not be obtained for the suggested change and the Provisional Calendar of sittings, as originally prepared, was circulated to members. On the Chairman agreeing to the Ministry's proposal, after his return from abroad, the change was notified to members through a Bulletin under the heading "Provisional Calendar of sittings for the Forty-third session—allotment of days for private members' business."<sup>3</sup>

After the issue of the Provisional Calendar of sittings for the 79<sup>th</sup> Session but before its commencement, the Minister of Parliamentary Affairs requested the Chairman to arrange for additional sittings on 18 and 25 March 1972, which were Saturdays. It was agreed and members were informed through a bulletin.<sup>4</sup>

### Sitting on Saturday

Generally, the House sits through Mondays to Fridays. However, due to exigencies of work, the House sat on Saturdays on many occasions either on the recommendation of the Business Advisory Committee or by consensus in the House or on the suggestion of the Chairman or the Government. Sometimes, sittings fixed on Saturdays have also been cancelled. After Government's decision to observe a five-day week in the Central Government offices, the House met on Saturdays also on some occasions.

For instance, the House met on Saturday, 20 July 1991 (*in lieu* of Monday, being the day of *Muharram*); on 14 September 1991, 21 December 1991, 8 August 1992 (special sitting to commemorate 50th Anniversary of Quit India Movement); 26 August 1995 (extension

of the 174<sup>th</sup> Session); on 19 March 2005 during 204<sup>th</sup> Session; 27 August 2011 during 223<sup>rd</sup> Session to take up pending private members' business due to cancellation of sittings on 26 August 2011 and on 7 September 2013 due to further extension of 229<sup>th</sup> Session. However, the sitting fixed for Saturday, 5 May, 2007 to take up Government Legislative business was cancelled.

### **Observance of holidays**

The Rajya Sabha observes all regular and *ad hoc* public holidays as declared by the Government of India.

On 13 May 1957, however, which was a holiday on account of *Buddha Purnima*, the President addressed both the Houses and a separate sitting of the Rajya Sabha was held on that day.

In fixing the sittings, restricted holidays in the Government of India offices are, however, not taken into account and sittings may be fixed on those days.

Besides, there are certain other holidays which are observed by the House irrespective of the fact that any of them may not be a public holiday for the Government of India offices. Ordinarily, no sittings are fixed on those days and if already fixed, these may be cancelled. Such holidays are enumerated below:

#### *(i) Raksha Bandhan*

On 5 August 1952, when the House met at 8.15 a.m., it was suggested that the House should adjourn on account of *Raksha Bandhan*. The Chair agreed that the House should adjourn for half-an-hour at 9.30 a.m. and resume at 10.00 a.m. "So as to show our sympathy with the general attitude" *i.e.* as a token of regard for the national festivity. The House adjourned and reassembled accordingly.<sup>5</sup>

On 24 August 1953, which was the first day of the 4<sup>th</sup> Session, after Question Hour, the House, by consensus, was adjourned on account of *Raksha Bandhan*.<sup>6</sup>

The sitting fixed for 21 August 1956 was cancelled on account of *Raksha Bandhan*.<sup>7</sup> However, the Rajya Sabha sat on 29 August 1958 and 18 August 1959, which were *Raksha Bandhan* days.

In subsequent years *Raksha Bandhan* was declared either a public holiday or the House had no sitting otherwise.

#### *(ii) May Day (1 May)*

The General Purposes Committee recommended that the Rajya Sabha should observe May Day as a holiday and may not hold any sitting on 1 May every year. The decision was given effect to from 1973 (84<sup>th</sup> Session).<sup>8</sup>

*(iii) Guru Ravidas Birthday*

On 18 February 1981, when the House met, a point was raised regarding observance of a holiday on account of birthday of Guru Ravidas on that day. After some discussion, the House was adjourned at 11.06 a.m.<sup>9</sup>

A sitting of the Rajya Sabha was originally fixed for 24 February 1986 (birthday of Guru Ravidas), in the Provisional Calendar of sittings. In view of the precedent of 1981 and Chairman's direction, the sitting fixed for that day was cancelled and members were informed through a parliamentary bulletin.<sup>10</sup>

*(iv) Maha Shivaratri*

On 11 February 1964, the House adjourned for the rest of the day at 1.30 p.m. on account of *Maha Shivaratri* as per the consensus in the House.<sup>11</sup> The House decided not to sit on 6 March 1970 on account of *Maha Shivaratri*.<sup>12</sup> However, on a request made by the Government, a sitting was fixed (at 6.30 p.m.) on 29 February 1984, which was *Maha Shivaratri*, for laying of the Budget.<sup>13</sup> In subsequent years *Maha Shivaratri* was declared either a public holiday<sup>14</sup> or the House had no sitting otherwise.

*(v) Vaisakhi*

There have been only five occasions when *Vaisakhi* fell during the sessions. No sittings were held on 13 April 1953 and 13 April 1955 which happened to be *Vaisakhi* days as 13 April was already a closed holiday during these years. In 1960 and 1972, on 13 April the House sat. On 14 April 1987, no sitting was fixed on account of *Vaisakhi*/ Dr. B.R. Ambedkar's Birth Anniversary, although it was not a public holiday.

*(vi) Ram Navami*

All the days when *Ram Navami* fell during the sessions in 1955 (1 April 1955), 1956 (19 April 1956), 1966 (31 March 1966), 1969 (27 March 1969), 1972 (23 March 1972) and 1980 (24 March 1980), were public holidays. On 29 March 1977, which was *Ram Navami*, it was not a public holiday. A sitting of the House was fixed for that day. However, on 28 March 1977, the House decided to cancel the sitting fixed for 29 March 1977.<sup>15</sup>

Whenever a date of any holiday is changed during the session, the matter of holding a sitting or otherwise on such a day is decided by the House itself or is placed before the Business Advisory Committee, if practicable, or a decision is taken by the Chairman.

Originally, 13 June 1962, was declared a holiday on account of *Muharram*. So the Rajya Sabha was summoned to meet on 14 June 1962, by an Order of the President dated 17 May 1962. However, on 11 June 1962, Government issued a communication changing the holiday on account of *Muharram* from 13 June to 14 June. As at that stage, it was not possible to change the date of commencement of the Rajya Sabha session, the House met as scheduled. On a representation from members and a general wish, the House was adjourned that day on account of *Muharram* without transacting any business.<sup>16</sup>

Originally, no sitting was fixed for 11 December 1969, due to *Eid*. *Eid* day was changed to 12 December 1969. However, the House sat on 12 December 1969, as scheduled and thereafter adjourned 17 minutes later.<sup>17</sup>

In case it is decided to observe any such day as a holiday requiring cancellation of a sitting, then, as recommended by the Business Advisory Committee, a sitting of the House *in lieu* thereof may be fixed on any other day of the week on which a sitting has not already been fixed.

The holiday on account of *Id-ul-Zuha* was changed from 27 to 28 February 1969. The sitting fixed for 28 February was, therefore, advanced to 27 February 1969. However, due to the Budget, the House met at 6.15 p.m. on 28 February 1969.

The holiday on account of *Muharram* was advanced from 12 December to 11 December 1978. The House accordingly sat on 12 December instead of 11 December and the business including Questions originally listed for 11 December were taken up on 12 December.<sup>18</sup>

In view of the holiday on account of *Eid* on 13 August 1980 and to enable Muslim members to return after *Eid* celebration, the sitting fixed for 14 August 1980 was cancelled and instead the House sat on 18 August 1980.<sup>19</sup>

The holiday on account of *Id-ul-Zuha* was advanced from 6 August to 5 August 1987. The sitting fixed for 5 August 1987, was cancelled and the House sat on 6 August 1987, as recommended by the Business Advisory Committee.<sup>20</sup>

### **Non-fixation of sittings on occasions**

Apart from Saturdays, Government holidays and other holidays mentioned earlier when sittings were not fixed in the past, sittings were also not fixed due to some special circumstances.

During the 125<sup>th</sup> Session, the Ministry of Parliamentary Affairs requested the Chairman not to fix any sittings from 7 March to 10 March 1983,

in view of the Seventh Summit of the Non-Aligned Movement (NAM) to be held in New Delhi. The Chairman agreed to and the Provisional Calendar of sittings as also the commencement Bulletin showed “No Sitting” on these days without mentioning the reason thereof.<sup>21</sup> Similarly, during the 128<sup>th</sup> Session, no sittings were fixed from 23 November to 30 November 1983, in view of the Commonwealth Heads of Government Meeting (CHOGM) to be held in New Delhi.<sup>22</sup>

During the 148<sup>th</sup> Session on the suggestion of the Ministry of Parliamentary Affairs no sittings were fixed from 7 November to 11 November 1988, to enable members to celebrate *Diwali* with their constituents. The Provisional Calendar of sittings as also the commencement Bulletin showed “No Sitting” on these days without mentioning any reason. The sitting for Monday, 14 November 1988, was also cancelled as announced by the Chairman in the House.<sup>23</sup>

### **Cancellation of sittings**

A sitting already fixed may also be cancelled. The need for the cancellation of a sitting may arise when there is no further business to be transacted or for any other unspecified reason. There have been numerous instances when sittings had been cancelled on the recommendation of the Business Advisory Committee or on the suggestions made in the House or by the Chairman in view of certain circumstances/reasons.

The Deputy Chairman announced in the House on 28 March 1953 that there would be no sittings of the House from 30 March 1953 to 8 April 1953.<sup>24</sup>

As recommended by the Business Advisory Committee on 5 March 1981, the House was to meet on Saturday, 14 March 1981 to complete the Government Business. However, on 10 March 1981 the Leader of the House announced that the House need not sit that day “because of certain problems”. Accordingly, the programme of business was rescheduled.<sup>25</sup>

During the 124<sup>th</sup> Session, 26, 27 and 28 October 1982, were declared as holidays on account of *Dussehra* and *Muharram*. 1 November 1982 was also a holiday on account of Guru Nanak’s birthday. Sittings fixed for Monday, 25 October and Friday, 29 October 1982, were cancelled as recommended by the Business Advisory Committee; consequently the House had a continuous break from Saturday, 23 October 1982 to Monday, 1 November 1982.<sup>26</sup>

During the 125<sup>th</sup> Session, as already stated, no sittings were fixed on 7, 8, 9 and 10 March 1983, in view of the Non-Aligned Movement (NAM) Summit in Delhi. Sitting for Friday, 11 March 1983, was cancelled, as recommended by the Business Advisory Committee; consequently the House had a continuous break from 5 to 13 March 1983.<sup>27</sup>

During the 148<sup>th</sup> Session, the Deputy Chairman, while announcing the extension of the session upto 20 December 1988, informed that after the House adjourned on 7 December 1988, it would reassemble on 16 December 1988; consequently, the House had a continuous break of eight days.<sup>28</sup>

During the 149<sup>th</sup> Session, three sittings on 20, 21 and 23 March 1989 were cancelled; consequently, the House had a continuous break of ten days.<sup>29</sup>

During the 199<sup>th</sup> Session, the sitting of the House fixed for 11 August 2003 was cancelled.<sup>30</sup>

Similarly, during 228<sup>th</sup> Session, the sittings fixed for 9 and 10 May 2013 were cancelled for non-transaction of business due to continuous interruptions in the House.<sup>31</sup>

Some special reasons which led to cancellation of sittings had been:

After the passing away of Pandit Jawaharlal Nehru, Prime Minister was announced on 27 May 1964, the House was adjourned to meet on 28 May 1964. Later, the Chairman cancelled the sitting and directed that the next sitting would be held on 29 May 1964.<sup>32</sup>

Sitting of the House on 12 July 1982 was cancelled in view of the Presidential election, as recommended by the Business Advisory Committee.<sup>33</sup>

After the demolition of the Babri Masjid structure at Ayodhya on 6 December 1992, the Chairman adjourned the House on 9 December 1992 till 15 December 1992. The sittings fixed for 10, 11, 14 and 15 December 1992 were, accordingly, cancelled.<sup>34</sup>

The Chairman announced cancellation of sitting for 9 August 1993, to enable members to participate in the Quit India Movement celebrations and pay homage to martyrs of our freedom movement.<sup>35</sup>

As recommended by the Business Advisory Committee, sittings fixed for Friday, 11 and Monday, 14 August 1995, were cancelled; 10 August 1995, was a holiday on account of *Raksha Bandhan*. Thus, there was a continuous mid-session recess from 10 to 15 August 1995.<sup>36</sup>

Sittings of the House fixed for 16 and 17 April 2003 were cancelled on recommendations of the Business Advisory Committee.<sup>37</sup>

During 204<sup>th</sup> Session, the sitting fixed for 18 April 2005 was cancelled on account of *Ram Navami*. The House reassembled on 19 April 2005.<sup>38</sup>

Sometimes *ad hoc* holidays are declared which may also necessitate cancellation of sittings fixed on those days. The decision to cancel such

a sitting is taken by the Chairman, ordinarily on the recommendation of the Business Advisory Committee.

The Minister of Parliamentary Affairs during a meeting of the leaders of the Opposition with the Speaker of Lok Sabha announced that a request was made for declaring 14 November 1974, a closed holiday for that House. Thereupon, the Rajya Sabha also decided to have a holiday that day.<sup>39</sup>

The sitting fixed for 9 May 1986, was cancelled due to the declaration of a national holiday on account of the 125<sup>th</sup> Birth Anniversary of Gurudev Rabindranath Tagore, as recommended by the Business Advisory Committee.<sup>40</sup>

On 4 November 1988, it was announced in the House that there would be no sitting on 14 November 1988, on account of the 99<sup>th</sup> Birth Anniversary of Pandit Jawaharlal Nehru.<sup>41</sup>

Consequent on the declaration of holidays on 31 January 1980, and 3 October 1990, on account of the Birthday of Prophet Mohammad, sittings fixed for those days were cancelled.<sup>42</sup>

Cancellation of a sitting may sometimes necessitate extension of the session or holding of an additional sitting on a Saturday or prolonged sittings during the session and skipping of lunch-break, in order to complete essential business. A decision in the matter is generally taken on the basis of the recommendation of the Business Advisory Committee or consensus in the House.

The Business Advisory Committee recommended that sittings of the House on Thursday, 25 August and Friday, 26 August 1988, be cancelled and the House should sit during the lunch hour and also sit late every day till the end of the session as and when necessary.<sup>43</sup>

The 156<sup>th</sup> Session was scheduled to terminate on 8 January 1991. It was announced in the House that there would be no sittings on 31 December 1990 and 1 January 1991 and instead the House would have sittings on 9 and 10 January 1991. The session was further extended upto 11 January 1991.<sup>44</sup>

As recommended by the Business Advisory Committee, sitting for 22 July 1991 was cancelled and instead the House sat on Saturday, 20 July 1991.<sup>45</sup>

The Business Advisory Committee recommended that the sitting of the House on 26 March 1993, be cancelled and the House should sit upto 8.00 p.m. and beyond, if necessary, each day from Monday, 22 March 1993 till 31 March 1993 and dispense with the lunch hour during the remaining part of the session.<sup>46</sup>

### Time of commencement of a sitting

A sitting of the House commences at such hour as the Chairman may direct.<sup>47</sup> Along with the summons, members are informed through the first general Bulletin about the normal timings of the commencement of a sitting and its scheduled conclusion during the session, unless the Chairman otherwise directs. While adjourning the House for the day, the Chairperson also announces the date and hour of the commencement of the next sitting. This is also indicated in the verbatim record of the day's proceedings and the Parliamentary Bulletin Part-I. Through a paragraph in the first Bulletin of every session, members are informed about the time of sittings of the Rajya Sabha during the session.

In the past, the hour of commencement of sittings varied and only after experimentation, the present hour of commencement of the sitting has been evolved, as may be seen from the following instances:

*First session (1952):* On 13 May 1952 and 16 May 1952, the House met from 10.45 a.m. to 1.30 p.m. and from 3.30 p.m. to 5.00 p.m. On 19 May 1952, the Leader of the House suggested that the House should sit only in the morning at a stretch for four hours and three quarters of an hour instead of twice a day. This was agreed to and the Chairman announced that from the next day, the House would meet from 8.15 a.m. to 1.00 p.m.<sup>48</sup> This was generally adhered to during that session. However, on 22 May 1952, the House met at 9.45 a.m. for a while; on 23 May 1952 at 5.30 p.m. for the Budget and on 29 May 1952 from 4.00 p.m. to 8.00 p.m. since many Ministers were required to be present in the other House.<sup>49</sup> From 4 to 12 August 1952, it met from 8.15 a.m. to 1.00 p.m. and from 3.00 p.m. or 3.30 p.m. to 6.00 p.m.

*Second session (1952):* During the second session, the House generally sat from 10.45 a.m. daily except for a week or so in December when it sat from 10.00 a.m.<sup>50</sup> At the sitting of the Rajya Sabha on 27 November 1952, a suggestion was made to hold the daily sitting of the House continuously for about four hours and three quarters of an hour instead of in two parts.<sup>51</sup> There was, however, no unanimity on the score. The suggestion was repeated after a few days but was not agreed to.<sup>52</sup> The House decided that with effect from 16 December 1952, it would sit from 10.00 a.m. to 1.00 p.m. and from 2.30 p.m. to 6.00 p.m. every day.<sup>53</sup>

*Third session (1953):* During the third session, in the early days, the House generally met from 2.00 p.m. to 7.30 p.m. at a stretch except on 11 February 1953, when it met at 4.00 p.m. after the President's Address at 2.00 p.m. that day; on 27 February 1953, it met at

6.00 p.m. for the Budget; on 6 March 1953, it met at 2.30 p.m. and on the next day which was a Saturday, it met from 9.00 a.m. to 1.00 p.m. During the latter part of the session, from 14 April 1953, the House met from 8.15 a.m. to 1.15 p.m.<sup>54</sup>

*Fourth session (1953):* The House generally met from 8.15 a.m. to 1.15 p.m. everyday.

*Fifth session (1953):* The House met daily from 1.30 p.m. to 6.30 p.m.

*Sixth session (1954):* During the first part, the general timing of the House was from 2.00 p.m. to 7.00 p.m. except on 15 February 1954 (Saturday), when the House met at 2.45 p.m. for the Budget and on 16 March 1954, it met at 1.00 p.m. for the Hindu Marriage Bill. During the second part of the session the House reverted to the timing of 8.15 a.m. to 1.15 p.m.<sup>55</sup> except on 19 April 1954, when it met at 2.00 p.m.

*Seventh session (1954):* From 23 August 1954 to 8 September 1954, the House continued to adhere to the timing of the previous session, namely, from 8.15 a.m. to 1.15 p.m. From 10 September 1954, the House switched over to the new timings *i.e.*, from 11.00 a.m. to 1.00 p.m. and 2.30 p.m. to 5.00 p.m.<sup>56</sup>

It may thus be seen that for nearly first three years, the House tried various timings for the commencement of its sittings and settled on the present timing of commencement at 11.00 a.m. with effect from 10 September 1954. In the subsequent sessions, there have been a few deviations or variations from this timing for specific purposes or occasions or in exceptional circumstances.

On 23 and 24 December 1955, the House sat from 10.00 a.m. to discuss the States' Reorganisation Commission Report.

On 13 May 1957, the House met at 9.30 a.m. to enable the newly elected members to make oath/affirmation before the President's Address that day and then adjourned at 9.59 a.m. for President's Address and reassembled thereafter.

On 31 May 1957, it met from 3.00 p.m. as the Essential Commodities (Amendment) Bill, 1957, was to be received from the Lok Sabha only towards the afternoon that day. Next day, the House met from 8.00 a.m. to 12.57 p.m. due to the meeting of the AICC.

On 2 December 1957, the House met at 2.30 p.m.

On 9 December 1959, the House met at 10.00 a.m. for the reply of the Prime Minister to the discussion on the Motion on India-China relations moved on 8 December 1959. On 22 December 1959, also it met at 10.00 a.m.

From 26 November to 8 December 1962, the House met from 12.00 noon. The Business Advisory Committee, however, recommended that with effect from 10 December 1962, the House should meet from 11.00 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m.

From 9 to 24 September 1965, the House met from 10.00 a.m. to 4.00 p.m. due to war with Pakistan and blackouts. A suggestion that the House should meet from 10.30 a.m. to 1.30 p.m. or 2.30 p.m. so that Government might be in a position to attend to the business arising out of war was not received favourably.<sup>57</sup>

Pakistan attacked India on the evening of 3 December 1971. The House decided on 4 December 1971 that the time of sittings of the House with effect from 6 December 1971, would be from 10.00 a.m. to 1.00 p.m. and there would be no Question Hour and Calling Attention during the remaining part of that session. On 20 December 1971, however, the House decided to revert to old timings i.e., 11.00 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m. from 21 December 1971 till the end of the session i.e. 24 December 1971.

#### **Time of commencement of sittings on some special occasions**

While the general time for commencement of a sitting, as mentioned earlier, is at 11.00 a.m., there are some special days when the House meets at other time:

*(i) On the day of the President's Address*

As already stated, a separate sitting of the Rajya Sabha is held half-an-hour after the President's Address. Necessary intimation in this regard is given to members through the Provisional Calendar of sittings as well as Parliamentary Bulletin Part-II.

*(ii) On the Budget day*

The Union Budget is presented to the Lok Sabha and a copy thereof is laid on the Table of the Rajya Sabha normally on the last day of February every year. Earlier, if that day happened to be a working day, the House used to get adjourned much before 5.00 p.m. to enable members to listen to the Finance Minister's speech in the Lok Sabha from the earmarked Rajya Sabha Members' Gallery in the other House. Thereafter, Rajya Sabha used to reassemble for a couple of minutes for laying of the Budget on the Table.

On 28 February 1961, the House sat from 11.00 a.m. to 1.00 p.m. and adjourned to meet again at 6.15 p.m. for the Budget. However, on 14 March 1962, the House continued its sitting without adjournment till the Budget was laid on the Table.<sup>58</sup>

However, a departure was made from the past practice in 1999 when the Finance Minister presented the Budget in the Lok Sabha for 1999-2000 at 11.00 a.m. and laid a copy of it on the Table of the Rajya Sabha at 1.10 p.m.<sup>59</sup> Since then the new practice is being followed. However, in the year 2000, the Budget was presented in the Lok Sabha at 2.00 p.m. and laid on the Table of the Rajya Sabha at 4.13 p.m. on 29 February. On the Budget day, the Rajya Sabha assembles only after presentation of the Budget in the Lok Sabha is over, to enable the Finance Minister to lay the Budget on the Table. The House assembles specifically for the purpose and is adjourned after laying of the Budget. When a Budget Session commences later than its usual date, both the Railway and General Budgets are presented on any day, which may be convenient to the Government. In an election year, the Budget is generally presented twice—first to secure a Vote on Account for a few months and later in full. The second, i.e. the full-fledged Budget is presented, on any day, as may be convenient to the Government formed after the election.<sup>60</sup>

The time for laying of the Budget in the House is intimated to members in advance through the Provisional Calendar of sittings, Bulletin Part-II and List of Business. The Chairperson also announces while adjourning the House the previous day or on the day of the Budget if it is otherwise sitting, the time when the House will meet or meet again, as the case may be, for the Budget. However, if delay is likely to take place in meeting the House at the previously appointed time on account of the longer time being taken by the Finance Minister's speech in the Lok Sabha, the House meets soon after the speech is concluded in the other House instead of at the previously appointed time; no announcement of the new time of the meeting of the House is generally made.<sup>61</sup>

(iii) *On Martyrs' Day*

There have been only four occasions when the House has met on 30 January, which is observed all over the country as Martyrs' Day. In 1976 and 1980, the House met on 30 January as per usual time at 11.00 a.m. and commenced its proceedings with the observance of silence for two minutes in memory of those who sacrificed their lives in the struggle for India's freedom. However, on 30 January 1985, the House met a minute earlier, i.e. 10.59 a.m. for the observance of silence at 11.00 a.m. On 30 January, 2004, the House met at 2.00 p.m. and commenced its proceedings with playing of National Anthem followed by observance of silence.

(iv) *On 50th anniversary of the first sitting of the Constituent Assembly*

On 9 December 1996, the House met at 3.00 p.m., as a function to commemorate the Fiftieth Anniversary of the first sitting of the Constituent Assembly was held in the morning on that day in the Central Hall.

### Mode of commencement of a sitting

A sitting of the House is duly constituted when it is presided over by the Chairman or a member competent to preside over a sitting of the House under the Constitution or the Rules of Procedure and Conduct of Business in the Rajya Sabha.<sup>62</sup> It is, therefore, essential that either the Chairman or the Deputy Chairman or a member on the panel of Vice-Chairmen, nominated by the Chairman under rule 8 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, presides over the House at the hour fixed for the commencement of a sitting and also so long as the sitting continues. Generally, either the Chairman or the Deputy Chairman presides at the commencement of the sitting of the House. However, in the absence of both, on occasions, one of the Vice-Chairmen also presides at the commencement of a sitting.<sup>63</sup>

Before any of the Presiding Officers takes the Chair at the commencement of a sitting, the Marshal of the House ensures that there is a quorum in the House. If there is no quorum, the bell is rung till there is quorum in the House.

The Marshal announces to the House the arrival of the presiding officer by his designation in Hindi thus: माननीय सभासदों, माननीय सभापति जी/उप सभापति जी/उपाध्यक्ष जी (Hon'ble Members, Hon'ble Chairman/Deputy Chairman/Vice-Chairman). All present in the House stand up. The presiding officer enters from the Chairman's Chamber which is just behind the Chair and greets the House and takes the seat. Members respond to his greetings and take their seats. With the quorum in the House and the Presiding Officer in Chair, the sitting of the House commences. Then the presiding officer proceeds with the business for the day as listed in the list of business. The same practice is followed when the House reassembles after the lunch-recess/adjournment of the House during the course of its sitting.

### Quorum for a sitting

Clauses (3) and (4) of article 100 of the Constitution provide as follows:

- (3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.
- (4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

The Constitution (Forty-second Amendment) Act, 1976, *inter alia*, omitted the above mentioned Provisions of article 100 and also amended article 118(1) enabling each House to make suitable rules including the quorum to constitute a meeting of the House.<sup>64</sup> However, the relevant amendments made under the above Act were subsequently omitted by the Constitution (Forty-fourth Amendment) Act, 1978.<sup>65</sup>

The total membership of the Rajya Sabha is 245, so the presence of 25 members *i.e.* one-tenth of the total number of members of the House is the quorum sufficient to constitute its meeting. Since the Chairman of the Rajya Sabha is not a member of the House, he is not counted for the purposes of quorum.

After the commencement of a sitting, the Chair presumes that there is quorum in the House until his/her attention is drawn to the lack of quorum. When a question of lack of quorum is raised, it is the duty of the Presiding Officer to direct that the quorum bell be rung. If there is quorum within the ringing of the bell, or if necessary, within the ringing of the bell second time, as the Chair may direct,<sup>66</sup> the business of the House proceeds. Otherwise, the House is adjourned either for a short while till there is quorum or for the rest of the day, depending on the circumstances.

This is the general practice followed regarding quorum in the House. However, there have been a few variations from this practice. Sometimes, when a question of quorum was raised reference was made to the convention in the House not to insist on quorum; inspite of the quorum bell ringing, a member who had the floor at the time was asked/allowed to continue; at other times the proceedings were suspended and the House was adjourned for want of quorum. Some instances are given below:

*(a) Reference to convention*

When a question of quorum was raised, the Chair observed, “If you insist on the quorum, I will have no objection to ring the quorum bell. But the convention is that quorum question is not insisted.” Thereafter, the member did not insist but stated that his purpose was to focus attention on the responsibility of the Treasury Benches (to maintain quorum).<sup>67</sup>

When the Prime Minister was about to make a statement on his Nepal visit, a question of quorum was raised. Bells were not rung. The Deputy Chairman made a count of members present and referred to the convention of not raising a question of quorum. However, the House was adjourned at 5.47 p.m.<sup>68</sup>

When a member pointed out that there were hardly fifteen members present during the discussion on the Railway Budget, the Vice-Chairman observed, “It is the convention of the House that even without quorum, we can run the business.”<sup>69</sup>

*(b) Quorum bell not rung*

When the House reassembled after the lunch-break a member pointed out that there was no quorum. There were just twenty-one members present in the House. Another member stated that it was a privilege of the Chair not to see that there was not a quorum and the Chair should exercise that privilege. At that stage some members entered the Chamber and the Deputy Chairman declared that there was quorum.<sup>70</sup>

When a question of quorum was raised, bell was not rung and the business proceeded due to understanding amongst leaders to complete the discussion on the Appropriation Bill and also the Chair requested that members should co-operate.<sup>71</sup>

When a question of quorum was raised, the Deputy Chairman suggested that the House could adjourn. While one member objected, another member agreed to the House being adjourned. No bell was rung and the House proceeded with the business.<sup>72</sup>

*(c) Adjournment without ringing bell*

When it was ascertained that there was no quorum, the House was adjourned for the rest of the day at 4.14 p.m.<sup>73</sup>

A member, on a point of order, referring to only fourteen members present in the House, asked if there was quorum in the House. After another member who was speaking concluded her speech, the Vice-Chairman stated that the question of quorum had been raised; he had no other alternative but to adjourn the House and the Minister concerned would reply at the next sitting. The House was adjourned at 5.14 p.m.<sup>74</sup>

When there was some controversy whether the House should continue to sit beyond 8.00 p.m., the member who was objecting to such continuance raised the question of quorum by saying that the House should not proceed with the business because there was no quorum and if the House proceeds, it would be unlawful. The Deputy Chairman then adjourned the House at 8.12 p.m.<sup>75</sup>

At the fag-end of the sitting, a member pointed out that there were only six members present and although he stated that he was not raising the question of quorum, he requested "If there are not sufficient members, after ten minutes, the House should be adjourned." As there were no more speakers, the Chair adjourned the House for the day.<sup>76</sup>

*(d) Suspension of proceedings/sitting or adjournment for the rest of the day*

When the clause-by-clause consideration of the Armed Forces (Special Powers) Continuance Bill, 1967 was taken up, a question of quorum

---

was raised. The bell was rung. Thereafter, the Vice-Chairman declared that there was no quorum and without proceeding further adjourned the House at 6.38 p.m.<sup>77</sup>

After the quorum bell was rung and there was no quorum, a member suggested that as there was not going to be any voting, the House could go on without quorum. The Deputy Chairman observed that since the question of quorum was raised, the bell had to be rung. Thereafter, the Deputy Chairman, adjourned the House for ten minutes to see if there was quorum. When the House reassembled a count of members present was taken and as there was lack of quorum, the Deputy Chairman adjourned the House for the rest of the day at 4.14 p.m. This came to the notice of the Chairman who, at the next sitting, made the following observation:

I notice that for the first time during these seven or eight years our House had to suspend business on Friday the 11 December 1959 for lack of quorum. Membership of the Rajya Sabha is an honour and a distinction. It also carries with it responsibilities and obligations. If you do not carry out the latter, you damage your honour and your distinction.<sup>78</sup>

When the third reading of the Armed Forces (Assam and Manipur) Special Powers (Amendment) Bill, 1972 was about to be taken up, a question of quorum was raised. After taking the physical count, the Chair adjourned the House at 4.25 p.m. till 4.45 p.m.<sup>79</sup>

On a question of quorum being raised, bell had to be rung. As there was no quorum, the House was adjourned at 12.08 p.m. till 2.30 p.m. The Chair observed, “No business can be transacted...because there is no quorum...”<sup>80</sup>

On 4 August 1994, a member raised the question of quorum. When another member stated that it was quite okay, the Deputy Chairman observed, “It is for the Chair to decide whether there is quorum or not. We cannot function until there is quorum... After all, the House should be run in order... If a member shakes the conscience of the members who are not here, then we have to listen to him.” When another member, on a point of order, asked whether in a situation when a major chunk of the members (whole Opposition) had boycotted—not attending the House (on the issue of Action Taken Report on the Report of JPC on Securities Scam)—it was necessary to consider the question of quorum, the Deputy Chairman observed, “The responsibility of quorum is of the Government.” Business then proceeded after there was quorum in the House.<sup>81</sup>

On Friday, 8 December 1995, the House was adjourned at 11.12 a.m. to meet at 2.00 p.m. After ringing quorum bell when it was found that there was no quorum in the House, the Secretary-General made the

announcement, “Hon’ble members, under the directions of the hon’ble Deputy Chairman, I hereby announce that the House, for lack of quorum, does not meet now, and will meet at 11.00 a.m. on Monday, 11 December 1995.”<sup>82</sup>

(e) *Continuance of proceedings while quorum bell on*

When a question of quorum was raised, the bell was rung but the member speaking was allowed to continue for 4-5 minutes before the House was adjourned for the day for lack of quorum.<sup>83</sup>

When a question of quorum was raised while a member was speaking, another member enquired as to how that member could speak when there was no quorum. The Chair observed that the bell was ringing. The hon’ble member could carry on.<sup>84</sup>

Similarly on another occasion, the Minister was permitted to continue his speech while the quorum bell was ringing.<sup>85</sup>

When a question of quorum was raised, the bell was ordered to be rung and the member who was speaking was permitted to conclude his speech. When another member stated that the proceedings could not continue without the quorum, the Deputy Chairman pointed out that the quorum bell had been rung. On this occasion the quorum bell had to be rung several times and whenever the quorum was challenged, the Chair declared that there was quorum. Objection was raised to the continuance of proceedings in the absence of quorum and ringing of bell many times.<sup>86</sup> The next day, a member raised the matter pertaining to these proceedings. His contention was that nothing that was said between the time of ringing of quorum bell and the Chair’s declaration about the quorum should go on record and the proceedings should have stopped. If there was no quorum when the count was taken after the stoppage of quorum bell, the House either should be adjourned till a particular time or for the rest of the day. The Deputy Chairman responded by saying that he had already declared that there was quorum during that time and advised the member to give his objections in writing or discuss the matter with him in his Chamber. “These are not things which should be raised in the House without notice and without telling us,” he said.<sup>87</sup>

### Lunch-recess

During the early years, the Rajya Sabha used to observe lunch-break generally for one and a half hours. The Business Advisory Committee at its meeting held on 22 April 1963, recommended that the House should observe lunch-break from 1.00 p.m. to 2.00 p.m. At its meeting held on 8 August 1985, the Committee recommended that with effect from Monday, 12 August 1985, the House should observe lunch-break from 1.30 p.m. to

2.30 p.m. At the meeting held on 14 August 1985, the Committee recommended that the existing practice of observing lunch-break on Fridays from 1.00 p.m. to 2.30 p.m. should continue. This was reiterated by the Committee at its meeting held on 21 November 1985.<sup>88</sup>

The Rules Committee recommended that the time of sitting of the House should be fixed from 11.00 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m., instead of from 11.00 a.m. to 1.30 p.m. and 2.30 p.m. to 5.00 p.m. In other words the Committee recommended that the lunch-recess should be from 1.00 p.m. to 2.00 p.m.<sup>89</sup> This recommendation of the Committee was given effect to from the 174<sup>th</sup> Session (July-August 1995).

In pursuance of rules 11 and 13 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) the Chairman has directed that from 233<sup>rd</sup> Session onwards, the time of a sitting of the Council shall be from 11.00 a.m. to 1.00 p.m. and from 2.00 p.m. to 6.00 p.m. except on Fridays when the House will reassemble after lunch at 2.30 p.m.<sup>90</sup>

However, there have been a number of instances when the House has decided, generally on the recommendation of the Business Advisory Committee, or by a consensus in the House, to dispense with lunch-break to provide additional time for transaction of Government and other business.

On an occasion when there was no consensus as to whether the House should adjourn for lunch or sit through without a break, a member moved a motion: "the House shall continue to work without lunch-recess." The motion was adopted but thereafter there was pandemonium and the House had to be adjourned for fifteen minutes.<sup>91</sup>

There have also been occasions when due to controversies or noisy scenes which require to be sorted out or to be amicably settled by discussion amongst leaders of parties/groups or due to some special circumstances, the Chair had to adjourn the House earlier than the scheduled time for lunch-recess.<sup>92</sup>

#### **Adjournment/Suspension of sitting for a while**

Apart from lunch-break, a sitting may also be adjourned for a while in pursuance of rule 257 of Rules of Procedure and Conduct of Business in the Council of States in case of grave disorder arising in the House<sup>93</sup> or for want of quorum; or death of a member or a Minister or an outstanding personality.

There have been occasions when the House has also been adjourned for a while due to absence of a Minister.<sup>94</sup>

On 16 December 1952, immediately after laying of papers, the Chairman informed the House that the Prime Minister would not be able to come and move the Resolution regarding approval of the First Five Year Plan standing in his name, for another half-an-hour and he had asked that the House should be adjourned till 11.30 a.m. As there was no other business before the House at 11.00 a.m., the House was adjourned for half-an-hour.<sup>95</sup>

The Railway Budget was slated to be laid at 1.00 p.m. The House was adjourned for lunch-recess at 1.00 p.m. in the absence of the Minister. The Deputy Chairman observed, “I think better regard should have been shown to this House”. When the House reassembled, he said, “... I am sorry that this thing should have happened — scant courtesy to the House. I expect better courtesy”. Thereafter, the Minister of Railways explained the matter and offered apology for his absence.<sup>96</sup>

The House was adjourned for ten minutes due to absence of any Minister when the House was discussing the Motion of Thanks. When the House reassembled, the Deputy Chairman observed, “The Chair demands the attention of the Treasury Benches that this House should be treated with proper courtesy”.<sup>97</sup> Next day the Chairman made the following observation:

For the first time in the last ten years, the House had to be adjourned for ten minutes. When grave matters were under discussion here, there was not a single representative of the Government. I hope that such a situation will not occur again and Government will be careful about its responsibility to the House.<sup>98</sup>

On an occasion, when the Health Minister was called to move for consideration of the Insecticides Bill, 1964, he was absent and the Minister of State in the Departments of Parliamentary Affairs and Communications rose to move the Bill on behalf of the Health Minister. This was not permitted and the Deputy Chairman moved to the next Bill observing, “...neither of the Minister is here from the Ministry of Health, it is something very amazing that either of them should not be here. This cannot be condoned very easily...” When the next Bill, viz., the Indian Official Secrets (Amendment) Bill, 1967, was called, it was noticed that the concerned Minister was not prepared. The Deputy Chairman adjourned the House earlier than scheduled for lunch-break and observed:

“I would like to draw the attention of the Prime Minister and through her, of the Council of Ministers that this House cannot be treated in such a derogatory manner, that you cannot jump from

one Bill to another like this and when one Bill is to be taken up, ask for a change to go to another Bill..." When the House reassembled after the lunch-recess, the concerned Minister apologised for his absence.<sup>99</sup>

The House was adjourned from 5.00 p.m. to 5.17 p.m. as the Prime Minister who was to continue his reply to the Motion of Thanks was busy in the other House.<sup>100</sup>

The House was adjourned for eight minutes to call the Minister of Information and Broadcasting on the issue of derogatory references to Maulana Azad on a Doordarshan programme.<sup>101</sup>

The House was adjourned for fifteen minutes in the midst of Zero Hour as some opposition members pointed out that not a single Minister looking after the Home portfolio was present in the House.<sup>102</sup>

Some other reasons which led to the adjournment of the House for a short while may also be mentioned as under:

Upon a motion moved by the Leader of the House and adopted by the House, a member was suspended from the service of the House for a week. When the member did not leave the House, the House was adjourned for ten minutes.<sup>103</sup> After the same member was suspended on another occasion and he refused to leave the House, the House was adjourned for fifteen minutes.<sup>104</sup>

The House was adjourned to enable the Chairman to allot seats to the members of the newly formed opposition party.<sup>105</sup>

The House was adjourned for two hours for *Jamatu'l Vida*.<sup>106</sup>

The House was adjourned for an hour for *At Home* in honour of the retiring members.<sup>107</sup>

The House was adjourned for dinner (9.39 p.m. to 10.05 p.m.) in view of the prolonged sitting of the House.<sup>108</sup>

The House was adjourned from 6.13 p.m. to 7.30 p.m. for *Iftar*.<sup>109</sup>

The House was adjourned from 6.31 p.m. to 7.02 p.m. to enable the Minister of Home Affairs to ascertain the whereabouts of a member who was arrested and later released in New Delhi.<sup>110</sup>

The House was adjourned at 3.32 p.m. to meet again at 5.00 p.m. for the statement of the Finance Minister on current fiscal situation.<sup>111</sup>

The House was adjourned within ten minutes of its assembly till 2.30 p.m. after the messages of the Lok Sabha regarding eighteen Bills

were reported by the Secretary-General. It was again adjourned from 2.51 p.m. to 3.55 p.m. as the Money Bills which were received from the Lok Sabha had to be returned and memorandum of business had to be prepared in respect thereof.<sup>112</sup>

The House was adjourned for an hour after adopting a motion for suspension of Question Hour, to discuss the situation arising out of destruction of *Charar-e-Sharief*.<sup>113</sup>

The House was adjourned at 12.32 p.m. and reassembled at 2.05 p.m. due to the bomb scare. After thorough checking, however, no such thing was found in the House.<sup>114</sup>

The House met at 11.08 a.m., adjourned and met again at 11.30 a.m. The Chairman made a reference to the passing away of Shrimati Aruna Asaf Ali, freedom fighter. Thereafter, the House observed silence and adjourned to meet again at 6.00 p.m.<sup>115</sup>

### **Conclusion of a sitting**

A sitting of the Rajya Sabha concludes at such hour as the Chairman may direct.<sup>116</sup> The House stands adjourned and the sitting of the day is terminated only when the Chairperson makes an announcement in the House to that effect. The Parliamentary Bulletin issued in respect of the commencement of a session mentions the normal time of commencement as well as conclusion of a sitting during the session. The presiding officer adjourns the House accordingly or as and when necessary after taking the sense of the House. The practice of mentioning the exact time of adjournment of the House after the conclusion of a sitting in the printed proceedings of the Rajya Sabha started from the seventh session (29 August 1954).

During the first few days of the commencement of the session, the sitting ordinarily concludes at 5.00 p.m. unless there is business which necessitates sitting beyond 5.00 p.m. The Business Advisory Committee, when it meets after the commencement of the session, considers the state of business of the House and recommends that the House should sit daily upto 6.00 p.m. and beyond, if necessary. This recommendation, when announced by the Chair, determines the time when the House should normally adjourn for the day. However, continuance of the House beyond 6.00 p.m. is generally decided by consultation amongst leaders of parties or consensus in the House or by a division, if necessary. If no consensus is arrived at, the Chair may adjourn the House, then and there.

The Business Advisory Committee at its meeting held on 26 August 1991, recommended that the House should sit upto 6.00 p.m. to

conclude the business. But being the first day of the session (160th) as per the consensus in the House it was adjourned at 5.06 p.m.<sup>117</sup>

When the Vice-Chairman suggested that only three speakers were left and so the debate on the Report of the JPC on Bofors could be concluded that day, a member stated that there was normal convention that the leaders of opposition parties, Leader of the House and the Minister for Parliamentary Affairs generally held consultations before extending the sitting of the House and that no such consultation had taken place. The Vice-Chairman adjourned the House announcing “There is no unanimity about extending the House”.<sup>118</sup>

When the House was discussing the Prasar Bharati (Broadcasting Corporation), Bill, 1990, a member pointed out that it was 6.00 p.m. (meaning that the House should be adjourned). There were disorderly scenes over the extension of time of the sitting. At one point, the Deputy Chairman proposed to take vote on the issue whether the House should continue to sit or not. A member suggested that this was never done and consensus did not mean voting. The House was adjourned from 7.15 p.m. to 7.41 p.m. (in two spells) for consultation. It was agreed to sit for one hour more before adjourning for the day. Thus, virtually the House debated for more than an hour whether to sit beyond 6.00 p.m. or not.<sup>119</sup>

When the Deputy Chairman announced that the Minister of Law would make a statement on the Chief Election Commissioner’s order postponing elections, at 5.30 p.m. objections were raised that the Business Advisory Committee had not recommended that the House should sit beyond 5.00 p.m. After taking the sense of the House it was adjourned for the day at 5.00 p.m. After a couple of days, again the same point arose. As there was no unanimity about the continuance of the House beyond 5.00 p.m., it was adjourned.<sup>120</sup>

### **Adjournment for the day before scheduled time**

As stated earlier, the normal time of the House is from 11.00 a.m. to 5.00 p.m. If, however, the business entered in the list of business is completed earlier or there is no further business to be transacted, the House may be adjourned for the day at that hour.<sup>121</sup>

Early adjournment of the House for the day may also take place due to demise of a member or Minister or an outstanding personality or any tragic event<sup>122</sup> or for want of quorum<sup>123</sup> or by consensus in the House for the purpose.

When there was no consensus as to how long the House should sit, a motion was moved “that the House sits till 7.00 p.m. every day until it adjourns *sine die*.” It was carried by a division.<sup>124</sup>

The Minister of State in the Ministry of Parliamentary Affairs moved that “The House be adjourned now.” The motion was adopted and the House adjourned at 4.22 p.m.<sup>125</sup>

The Deputy Chairman declared that the House was in no mood to conduct further business and adjourned the House.<sup>126</sup>

In the case of grave disorder arising in the House, the Chairperson may, if he/she thinks it necessary to do so, adjourn the House.<sup>127</sup> Some of the issues on which the House has been adjourned for the rest of the day, on many occasions, due to grave disorder in the past are noted below:

CBI Report regarding import licences to certain parties in Yanam and Mahe;<sup>128</sup> delay in the formation of Government in Maharashtra;<sup>129</sup> allegations of corruption by Chaudhary Charan Singh against Prime Minister, Shri Morarji Desai’s son;<sup>130</sup> correspondence exchanged between the Prime Minister and the Home Minister;<sup>131</sup> allegations of corruption against family members of the Prime Minister and the Deputy Prime Minister;<sup>132</sup> inaccurate news given about Shri Jayaprakash Narain’s death;<sup>133</sup> water crisis in Delhi;<sup>134</sup> resignation of Shri V.P. Singh as the Defence Minister;<sup>135</sup> Bofors;<sup>136</sup> Fair Fax;<sup>137</sup> resignation of opposition members in the Lok Sabha;<sup>138</sup> false cases registered against Congress (I) members;<sup>139</sup> Meham incident;<sup>140</sup> surveillance on Shri Rajiv Gandhi;<sup>141</sup> Ayodhya issue;<sup>142</sup> Dunkel Draft/GATT;<sup>143</sup> ATR on the JPC Report on Securities Scam;<sup>144</sup> Gyan Prakash Committee Report on Import of Sugar;<sup>145</sup> imposition of President’s Rule in Bihar;<sup>146</sup> New Telecom Policy (series of adjournments during 175<sup>th</sup> Session); Hawala issue (series of adjournments during 176<sup>th</sup> Session); the reported statement of the Prime Minister on the Ayodhya issue (series of adjournments during 191<sup>st</sup> Session); Tehelka issue (series of adjournments during 192<sup>nd</sup> Session); demand for removal of Narendra Modi Government in the wake of Gujarat riots (series of adjournments during 195<sup>th</sup> Session); and the issue of irregularities in the allotment of petrol pumps (series of adjournments during 196<sup>th</sup> Session).

Apart from the above-mentioned general reasons which may result in adjournment of the House earlier than the scheduled time, there may be some occasions or very special or specific reasons due to which the House may also be adjourned before the scheduled time. Some such occasions of early adjournments in the past are mentioned below:

A Bill was withdrawn at the consideration stage. The concerned Minister was not ready with the next Bill listed. The House was adjourned at 1.05 p.m. even though there was another Bill included in the list of business. This came to the adverse notice of the Chairman who next day observed, “It is a matter of regret that on the very second day of the session, we had to adjourn at 1.05 p.m.”<sup>147</sup>

As members wanted that the Bill listed in the list of business after completion of one item be taken up the next day, the House was adjourned at 4.23 p.m.<sup>148</sup>

The House was adjourned at 4.00 p.m. on 29 April 1969, to enable members to go to the airport to pay respect to Shri P.N. Sapru, former member of the House, who had passed away early that morning at Hyderabad and whose body was to be received at the airport.<sup>149</sup>

On a suggestion of a member, the House was adjourned at 2.41 p.m. on 21 November 1969, to enable members to attend the funeral of late Shrimati Violet Alva, former Deputy Chairperson, Rajya Sabha who had passed away the previous day.<sup>150</sup>

On a suggestion of members that they wanted time to go through papers pertaining to the financial business coming up in the House the next day, the House was adjourned at 1.09 p.m.<sup>151</sup>

Similarly, on a suggestion of a member that the House may be adjourned for the day to enable the members to watch the results of assembly elections being declared on that day, the House adjourned at 11.03 a.m. by consensus.<sup>152</sup>

The House was adjourned at 12.13 p.m. after the Prime Minister made a statement regarding recognition of Bangladesh.<sup>153</sup>

On the request of a member, the House was adjourned at 3.59 p.m.<sup>154</sup>

The House adjourned earlier on a few occasions on Fridays due to absence of members in whose names private members' Bills were listed in the list of business.<sup>155</sup>

The Chairman announced that the House would be adjourned at 4.00 p.m. to enable members to witness the Beating the Retreat Ceremony. However, the House was adjourned at 3.19 p.m. due to death of a sitting member in Delhi that day.<sup>156</sup>

A member who was suspended from the service of the House for a week, refused to withdraw from the House. The House was initially adjourned for an hour and thereafter again upto 3.00 p.m. When the House reassembled, the Deputy Chairman informed that consultations were going on amongst the leaders of parties/groups. The House was eventually adjourned for the rest of the day at 3.01 p.m.<sup>157</sup>

The Prime Minister made a statement regarding launching of IRS-1B. There was a consensus in the House that the House should adjourn. The House was accordingly adjourned at 5.00 p.m. "on the happy note of launching of the Satellite."<sup>158</sup>

The Minister of Home Affairs was to make a statement at 5.30 p.m. on the demolition of temples in Ayodhya. As copies of the statement were not ready for distribution to the members, the House was adjourned.<sup>159</sup>

The Business Advisory Committee at its meeting held on 10 July 1992, recommended that the Chair may, after taking the sense of the House, adjourn the House after Question Hour on Monday, 13 July 1992, to enable members to cast their votes in the Presidential Election, 1992. However, the House adjourned within half-an-hour of its meeting due to the furore over the Ayodhya issue.<sup>160</sup>

### **Sitting beyond midnight**

As already stated, a sitting of the House concludes at such time as the Chairman may direct. The exact or precise time upto which the House may sit is, however, determined by the state of business and consensus in the House. There have, therefore, been occasions when the Rajya Sabha had continued its sittings beyond midnight for the consideration and completion of important business.

On 22 December 1980, while the House was considering the National Security Bill, 1980, at midnight, a point of order was raised that the list of business pertained only to that day and it became inoperative at midnight and the sitting of the House could not continue beyond midnight. The Deputy Chairman, while ruling out the point of order with reference to rule 13 of the Rules of Procedure and Conduct of Business in the Council of States, said:

“Sittings of the Council shall conclude at such hour as the Chairman may direct.” I have conducted the proceedings and the proceedings are continuing uninterrupted till this Bill is concluded. Therefore, the House is in order and the discussion on the Bill will continue till it comes to an end. The sitting for today is scheduled to start at 11 A.M. and it will start at 11 A.M. as we decided today.... Mr. Mody, you must know the courtesy of the House. You have to sit down when I am speaking.

The proceedings, therefore, continued till the Bill was passed and the House was adjourned at 00.40 a.m. to meet again at 11.00 a.m. on 23 December 1980.<sup>161</sup>

On that day, again the matter was sought to be raised in the presence of the Chairman. Some members contended that the House was meeting twice on the same day, that whatever was transacted beyond 12.00 midnight on 22 December 1980, was unconstitutional. The Chair disposed the point by observing that when the Deputy Chairman sat

in the Chair he was the Chairman for that sitting and he could not sit in judgement over his action.<sup>162</sup>.

The House sat on 17 September 1981 till 4.43 a.m. next day for the consideration and passing of the Essential Services Maintenance Bill, 1981.

The House sat on 8 May 1986, till 1.52 a.m. next day for the consideration and passing of the Muslim Women (Protection of Rights on Divorce) Bill, 1986.

The House sat on 29 December 1986, till 3.22 a.m. next day to discuss the issue of purchase of Bofors guns.

The House discussed the Justice Thakkar Commission Report on engagement of Fair Fax Agency by sitting on 14 December 1987, till 1.52 a.m. next day.

The House sat on 11 May 1988, till 12.36 a.m. next day to discuss the JPC Report on Bofors.

The communal situation was discussed in the House on 12 October 1989, till 12.52 a.m. next day.

The House sat on 13 October 1989, till 12.31 a.m. next day for the consideration and passing of the Constitution (64<sup>th</sup> and 65<sup>th</sup>) Amendment Bills, 1989 relating to Panchayats and Municipalities.

The inadequacy of security for the late Shri Rajiv Gandhi was discussed by the House on 4 June 1991 till 1.15 a.m. next day.

The discussion on the motion for consideration of the Lokpal Bill, 2011 which commenced on 29 December 2011. It was the last day of the Session and the Government was not in favour of extending the Session. Due to continued pandemonium in the House that began before midnight, the Chair adjourned the House at 00.03 a.m. next day.

### **Playing of National Anthem and National Song**

The General Purposes Committee considered in detail a proposal for the commencement/conclusion of sessions of the Rajya Sabha with *Vande Mataram*/National Anthem at its sitting held on 23 November 1992. The Committee was of the view that the matter required detailed examination and a decision should, therefore, be deferred to enable such examination. The Committee was also of the view that there should be uniformity in the practice to be adopted in both the Houses.<sup>163</sup> At an informal meeting of leaders of parties/groups, it was decided that the National Anthem should be played in the Chamber. Accordingly, the practice started from Tuesday, 25 November 1992<sup>164</sup> (The second day of the 165<sup>th</sup> Session).

Since the 165<sup>th</sup> Session, a regular practice has been introduced to commence the first sitting of a session with the playing of the recorded instrumental version of the National Anthem, *Jana Gana Mana* and playing the recorded instrumental version of the National Song, *Vande Mataram*, at the conclusion of the session.<sup>165</sup>

### **Adjournment *sine die***

On the last sitting of a session, as indicated in the Provisional Calendar of sittings or if the session is extended on the recommendation of the Business Advisory Committee or otherwise on the last day of the extended session the Chairperson adjourns the House *sine die*. The adjournment of the House *sine die* terminates the session. Generally, the announcement of the adjournment of the House *sine die* is preceded by valedictory remarks by the Chair and is followed by playing of the *Vande Mataram*.<sup>166</sup>

### **Special sittings**

On 13 May 1952 and 17 April 1962, special (separate) sittings of the House were held for the purpose of oath/affirmation by the newly elected/nominated members of the House.<sup>167</sup>

The Business Advisory Committee recommended that to mark the solemn occasion of the Fiftieth Anniversary of the ‘Quit India Movement’ and to pay homage to the martyrs of the freedom movement, a special sitting of the Rajya Sabha be held on Saturday, 8 August 1992, fifteen minutes after the meeting in the Central Hall was over, to adopt a Resolution by the House on that day.<sup>168</sup> Accordingly, a special sitting of the House was held on Saturday, 8 August 1992, at 12.17 p.m. The Deputy Chairman placed a Resolution before the House to mark the occasion of the Fiftieth Anniversary of Quit India Movement. The House approving the Resolution observed a minute’s silence, all members standing, as a mark of respect to the memory of the martyrs and freedom fighters and then adjourned for the day at 12.20 p.m.

The Hundred and Eighty-first session of the Rajya Sabha commenced from 23 July 1997. Being the fiftieth year of India’s Independence, during the session four special sittings from 26 to 29 August 1997, had been scheduled without any Question Hour, Zero Hour and Government business. Four topics namely, Human Development and Science and Technology; Economy and Infrastructure; India and the World; and Parliamentary Democracy were discussed. The special sittings were extended by two days and the House accordingly adjourned *sine die* on 1 September 1997. On the last day a Resolution was unanimously adopted by the House.<sup>169</sup>

During 225<sup>th</sup> Session, the House met for a special sitting on Sunday, 13 May 2012 to commemorate sixtieth anniversary of the first sitting of Parliament of India. A Resolution was moved by the Hon'ble Chairman which was unanimously adopted by the House. The House then adjourned to meet again the next day.<sup>170</sup>

### **First sitting of Rajya Sabha**

After coming into force of the Constitution, the Rajya Sabha was duly constituted on 3 April 1952, and the first sitting of the House was held at 10.45 a.m. on Monday, 13 May 1952, with Dr. S. Radhakrishnan, Chairman in the Chair. Secretary of the Rajya Sabha read out an order of the President<sup>171</sup> dated 11 May 1952, appointing Dr. S. Radhakrishnan and Shri S.V. Krishnamoorthy Rao to be the persons before whom members of the Council of States could make and subscribe the oath or affirmation.

Thereafter, at the suggestion of the Chairman, the members stood in silence for two minutes to mark the solemn occasion of the first meeting of the Council of States under the Constitution.<sup>172</sup> The Chairman then welcomed the members and expressed the hope that “by our activities we will further the speedy and all-round progress of our people”. After he explained the procedure of making oath/affirmation, members took oath/affirmation on that day<sup>173</sup> and then the House was adjourned.

#### NOTES AND REFERENCES

1. R. 12.
2. R.S. Deb., 6.3.1987, c. 192-95.
3. Bn. (II), 20.4.1963; *see also* Bn. (II), 9.5.1966.
4. *Ibid.*, 1.3.1972.
5. C.S. Deb., 5.8.1952, c. 2945-46 and 2969.
6. *Ibid.*, 24.8.1953, c. 94-96.
7. Bn. (II), 16.8.1956.
8. GPC mts., 1.9.1972.
9. R.S. Deb., 18.2.1981, c. 1-4.
10. Bn. (II), 10.2.1986.
11. R.S. Deb., 11.2.1964, c. 144.
12. *Ibid.*, 5.3.1970, c. 129-38.
13. Bn. (II), 27.2.1984; *and* F. No. 1/1/84-L.
14. C.S. Deb., 11.2.1953, c. 30.
15. R.S. Deb., 28.3.1977, c. 13-14.
16. *Ibid.*, 14.6.1962, c. 1-2.
17. *Ibid.*, 12.12.1969, c. 3920-21 and 3982.
18. *Ibid.*, 8.12.1978, c. 144.
19. *Ibid.*, 12.8.1980, c. 1-8.
20. *Ibid.*, 4.8.1987, c. 281; *and* BAC mts., 4.8.1987.
21. F. No. 1/1/83-L.; *and* Bn. (II), 28.2.1983.
22. F. No. 1/4/83-L.

23. F. No. 1/4/88-L.; and Bn. (II), 4.11.1988.
24. C.S. Deb., 28.3.1953, c. 2458.
25. R.S. Deb., 5.3.1981, c. 349-50; and 10.3.1981, c. 179-80.
26. *Ibid.*, 6.10.1982, c. 263; Bn. (II), 6.10.1982, 22.10.1982; and BAC mts., 6.10.1982.
27. *Ibid.*, 28.2.1983, c. 2273; Bn. (II), 28.2.1983; and BAC mts., 28.2.1983.
28. *Ibid.*, 7.12.1988, c. 294-95.
29. BAC mts., 8.3.1989; and Bn. (II), 7.3.1989.
30. Bn. (I), 8.8.2003.
31. *Ibid.*, 8.5.2013.
32. R.S. Deb., 27.5.1964, c. 80; and Bn. (II), 27.5.1964.
33. BAC mts., 9.7.1982.
34. R.S. Deb., 9.12.1992, c. 216; and BAC mts., 9.12.1992.
35. *Ibid.*, 6.8.1993, c. 335.
36. Bn. (II), 8.8.1995.
37. *Ibid.*, 8.4.2003.
38. *Ibid.*, 15.4.2005.
39. R.S. Deb., 11.11.1974, c. 131; and Bn. (II), 11.11.1974.
40. BAC mts., 8.5.1986; and R.S. Deb., 8.5.1986, c. 327.
41. R.S. Deb., 4.11.1988, c. 246.
42. Bn. (II), 24.1.1980; and 28.9.1990.
43. BAC mts., 16.8.1988.
44. R.S. Deb., 27.12.1990, c. 276-77; BAC mts., 28.12.1990; and Bn. (II), 10.1.1991.
45. *Ibid.*, 16.7.1991, c. 304; BAC mts., 17.7.1991.
46. BAC mts., 18.3.1993.
47. R. 11.
48. C.S. Deb., 19.5.1952, c. 149-50.
49. *Ibid.*, 29.5.1952, c. 691.
50. *Ibid.*, 15.12.1952, c. 1821.
51. *Ibid.*, 27.11.1952, c. 477-78.
52. *Ibid.*, 2.12.1952, c. 668.
53. *Ibid.*, 15.12.1952 c. 1821.
54. *Ibid.*, 10.4.1953, c. 2696.
55. *Ibid.*, 15.3.1954, c. 2673; and 19.4.1954, c. 3336.
56. R.S. Deb., 8.9.1954, c. 1810.
57. *Ibid.*, 7.9.1965, c. 3031-32.
58. *Ibid.*, 14.3.1962, c. 189-340.
59. Bn. (I), 27.2.1999 and Budget-speech of Finance Minister laid on the Table.
60. Interim Budget was presented by the NDA Government on 3.2.2004 at 12.15 p.m. and full-fledged Budget was presented by the UPA Government on 8.7.2004 at 11.00 a.m.
61. R.S. Deb., 28.2.1983, c. 355; and 24.7.1991, c. 230.
62. R. 10.
63. R.S. Deb., 20.12.1963, 21.12.1963, 28.3.1966, 26.12.1967, 12.12.1969, 31.3.1980, 11.3.1988, 9.1.1991, 14.9.1991, 16.9.1991, 17.9.1991, 18.9.1991, 12.8.1994, 26.8.1995, 13.9.1996, 11.3.1997, 12.3.1997, 15.3.1997, 25.7.1997, 1.9.1997, 27.2.1999 and 16.3.2001.
64. The Constitution (Forty-second Amendment) Act, 1976, ss. 18 and 22.
65. The Constitution (Forty-fourth Amendment) Act, 1978, s. 45.
66. R.S. Deb., 14.12.1956, c. 2544.
67. *Ibid.*, 7.5.1984, c. 464.
68. *Ibid.*, 5.3.1991, c. 364-72
69. *Ibid.*, 26.7.1991, c. 351.
70. C.S. Deb., 13.12.1952, c. 1713.
71. R.S. Deb., 26.3.1979, c. 165-66.
72. *Ibid.*, 1.6.1990, c. 239-40.
73. *Ibid.*, 11.12.1959, c. 2282-84.
74. *Ibid.*, 28.11.1968, c. 1854.

75. R.S. Deb., 2.3.1981, c. 340.
76. *Ibid.*, 20.7.1991, c. 176-78.
77. *Ibid.*, 31.3.1967, c. 1828.
78. *Ibid.*, 14.12.1959, c. 2368.
79. *Ibid.*, 18.3.1972, c. 126.
80. *Ibid.*, 6.3.1991, c. 182-83.
81. *Ibid.*, 4.8.1994; *see also* Bn. (I), 6.9.1996.
82. *Ibid.*, 8.12.1995, c. 158.
83. *Ibid.*, 4.6.1971, c. 245-46.
84. *Ibid.*, 25.7.1977, c. 320-21; *see also* R.S. Deb., 7.12.1967, c. 3004.
85. *Ibid.*, 31.3.1980, c. 103-04.
86. *Ibid.*, 9.3.1978, c. 187-92.
87. *Ibid.*, 10.3.1978, c. 187-92.
88. BAC mts., 22.4.1963, 8.8.1985, 16.8.1985, 21.11.1985; R.S. Deb., 18.9.1981, c. 235-36 (for lunch timings on Fridays); *and* 22.11.1985, c. 248.
89. 7 Rpt., COR.
90. Bn. (II), 11.11.2014.
91. R.S. Deb., 16.12.1969, c. 4349-67.
92. *Ibid.*, 21.7.1989, c. 237-38; 17.5.1990, c. 170; 6.9.1990, c. 226; 4.3.1991, c. 335; 11.3.1991, c. 371; 22.7.1992, c. 201; 8.12.1994, c. 347; 7.8.1995, c. 280; *and* 8.8.1995, c. 244.
93. *Ibid.*, 14.12.1967, c. 4062-63; 26.11.1969, c. 1558; 16.12.1969, c. 4349-67; 15.12.1983, c. 217; 3.7.1984, c. 9 (during Question Hour); 17.8.1984, c. 3, 13 (during Question Hour); 3.12.1987, c. 200; 14.3.1988, c. 312; 15.3.1988, c. 169; 5.8.1988, c. 214; 1.9.1988, c. 6, 226; 17.11.1988, c. 183-84; 27.3.1989, c. 270; 21.7.1989, c. 237-38; 24.7.1989, c. 272; 3.8.1989, c. 241; 18.8.1989, c. 232; 26.8.1989, c. 166; 31.5.1990, c. 158-59; 16.8.1990, c. 453; 20.8.1990, c. 317; 4.9.1990, c. 414; 6.9.1990, c. 226; 11.1.1991, c. 16; 26.2.1991, c. 204; 12.3.1991, c. 83; 1.8.1991, c. 264; 6.9.1991, c. 261; 2.12.1991, c. 148; 9.12.1991, c. 194, 195; 26.2.1992, c. 236 (adjourned 4 times); 10.7.1992, c. 155 (adjourned twice during Question Hour); 21.7.1992, c. 4 (adjourned during Question Hour); 31.7.1992, c. 10 (adjourned during Question Hour); 4.8.1992, c. 320 (the Deputy Chairman made a clarification on 5.8.1992 regarding previous day's adjournment); 24.2.1993 (adjourned twice); 25.2.1993 (adjourned thrice); 26.2.1993 (adjourned twice); 10.8.1993 (adjourned twice); 27.8.1993 (adjourned twice); 8.12.1993 (adjourned twice); 30.12.1993; 28.2.1994; 27.4.1994; 13.6.1994; 27.7.1994; 8.12.1994; 14.12.1994; *infra* (adjourned thrice); 23.3.1995 (adjourned twice); 28.3.1995; *and* 31.7.1995.
94. *Ibid.*, 22.11.1962, c. 2181; 24.2.1966, c. 1252; 21.3.1967, c. 355; 4.4.1967, c. 2126; 24.7.1967, c. 133-34; 22.12.1969, c. 5262-65; 18.8.1970 c.195; 25.4.1988, c. 243; 29.8.1988, c. 252; 5.12.1991, c. 270-72; *and* 26.8.1996.
95. C.S. Deb., 16.12.1952, c. 1959-60.
96. R.S. Deb., 18.2.1959, c. 1126-27.
97. *Ibid.*, 1.5.1962, c. 1295-97.
98. *Ibid.*, 2.5.1962, c. 1499-1500.
99. *Ibid.*, 24.7.1967, c. 129-36.
100. *Ibid.*, 29.12.1989, c. 288.
101. *Ibid.*, 6.9.1991, c. 261.
102. *Ibid.*, 10.8.1993, c. 487-88.
103. *Ibid.*, 25.7.1966, c. 138.
104. *Ibid.*, 14.12.1967, c. 4063.
105. *Ibid.*, 17.11.1969, c. 124.
106. *Ibid.*, 19.11.1971, c. 1, 128.
107. *Ibid.*, 27.3.1980, c. 195, 350.
108. *Ibid.*, 18.8.1989, c. 233.
109. *Ibid.*, 30.3.1990, c. 320-23, 337.
110. *Ibid.*, 23.5.1990, c. 347.
111. *Ibid.*, 27.12.1990, c. 253.

- 
112. R.S. Deb., 11.3.1991, c. 387-88.  
113. *Ibid.*, 15.5.1995, c. 11.  
114. Bn. (I), 5.12.1995; and R.S. Deb., 5.12.1995, c. 213.  
115. *Ibid.*, 30.7.1996.  
116. R. 13.  
117. R.S. Deb., 26.8.1991, c. 202-06.  
118. *Ibid.*, 11.8.1987, c. 301-303.  
119. *Ibid.*, 4.9.1990, c. 379-414.  
120. *Ibid.*, 3.8.1993, c. 464-73; and 5.8.1993, c. 359-74.  
121. *Ibid.*, 10.5.1958 (at 3.50 p.m.); 29.8.1958 (at 11.18 a.m.) (Private Member's Business); 7.9. 1959 (at 3.25 p.m.); 9.12.1959 (at 3.02 p.m.); 16.12.1959 (at 4.31 p.m.); 1.12.1960 (at 3.47 p.m.); 2.12.1960 (at 3.48 p.m.); 15.2.1961 (at 1.15 p.m.); 18.3.1961 (at 12.54 p.m.); 29.11.1961 (at 4.22 p.m.); 6.8.1962 (at 4.03 p.m.); 21.11.1963 (at 5.20 p.m.); 31.3.1971 (at 3.28 p.m.); 1.8.1972 (at 3.40 p.m.); 21.8.1972 (at 3.50 p.m.); 7.12.1972 (at 3.40 p.m.); 23.12.1972 (at 3.22 p.m.); 7.3.1973 (at 4.28 p.m.); 16.8.1973 (at 3.57 p.m.); 29.11.1973 (at 3.49 p.m.); 24.12.1973 (at 2.05 p.m.); 4.12.1974 (at 3.56 p.m.); 24.4.1975 (at 4.04 p.m.); 25.7.1975 (at 3.23 p.m.); (Private Member's Business); 6.8.1975 (at 3.32 p.m.); 8.8.1975 (at 12.58 p.m.); 9.8.1975 (at 12.15 p.m.); 16.1.1976 (at 3.53 p.m.); 5.12.1976 (at 4.00 p.m.); 10.3.1976 (at 4.02 p.m.); 11.3.1976 (at 4.03 p.m.); 12.5.1976 (at 3.58 p.m.); 20.8.1976 (at 1.00 p.m.) (Private Member's Business); 1.12.1977 (at 4.16 p.m.); 13.12.1977 (at 3.22 p.m.); 21.3.1978 (at 4.00 p.m.); 24.4.1981 (at 2.45 p.m.); 3.8.1987 (at 3.17 p.m.); 12.3.1991 (at 4.23 p.m.); and 13.3.1991 (at 12.20 p.m.).  
122. See Chapter 16, *infra*.  
123. R.S. Deb., 11.12.1959, c. 2282-84; 22.8.1963, c. 1269-70; 4.6.1971, c. 245-46; 25.7.1977, c. 320-22; 5.3.1991, c. 364-72; and 20.7.1991, c. 176-78.  
124. *Ibid.*, 23.12.1968, c. 5391.  
125. *Ibid.*, 18.7.1977, c. 144; and 28.7.1977, c. 246.  
126. *Ibid.*, 19.3.1978, c. 210; and 26.12.1978, c. 116.  
127. R. 257.  
128. R.S. Deb., 4.12.1974, c. 205-40.  
129. *Ibid.*, 6.3.1978, c. 122.  
130. *Ibid.*, 17.7.1978, c. 194.  
131. *Ibid.*, 20.7.1978, c. 258.  
132. *Ibid.*, 13.12.1978, c. 238; 14.12.1978, c. 218; 18.12.1978, c. 242; 19.12.1978, c. 210; 20.12.1978, c. 144; and 22.12.1978, c. 138.  
133. *Ibid.*, 22.3.1979, c. 212.  
134. *Ibid.*, 13.7.1979, c. 23 and 128.  
135. *Ibid.*, 13.4.1987, c. 10 and 136.  
136. *Ibid.*, 28.7.1987, c. 428; 29.7.1987, c. 4; 30.7.1987, c. 1-3 and 190; 19.7.1989, c. 282 and 290; and 20.7.1989, c. 230, 279-80 and 286.  
137. *Ibid.*, 15.4.1987, c. 153-276.  
138. *Ibid.*, 24.7.1989, c. 352.  
139. *Ibid.*, 17.5.1990, c. 177, 179-80; and 18.5.1990, c. 242.  
140. *Ibid.*, 21.5.1990, c. 198.  
141. *Ibid.*, 4.3.1991, c. 331, 335-36.  
142. *Ibid.*, 10.7.1992, c. 277-82; 22.7.1992, c. 210; 23.7.1992, c. 240; 7.12.1992; 8.12.1992, c. 266; 9.12.1992, c. 216; and 16.12.1992, c. 1084.  
143. *Ibid.*, 15.12.1993, 16.12.1993 and 18.4.1994.  
144. *Ibid.*, 28.7.1994, 29.7.1994, 1.8.1994 and 7.12.1994.  
145. *Ibid.*, 14.12.1994, 15.12.1994, 16.12.1994, 20.12.1994, 21.12.1994, 22.12.1994 and 23.12.1994.  
146. *Ibid.*, 28.3.1995, c. 308-12.  
147. *Ibid.*, 11.8.1959, c. 264; and 12.8.1959, c. 360-62.  
148. *Ibid.*, 18.2.1960, c. 1195-1200.  
149. *Ibid.*, 29.4.1969, c. 462.

- 
150. R.S. Deb., 21.11.1969, c. 909-22.
  151. *Ibid.*, 26.3.1971, c. 54.
  152. *Ibid.*, 4.12.2003.
  153. *Ibid.*, 6.12.1971, c. 56.
  154. *Ibid.*, 29.1.1976, c. 196.
  155. *Ibid.*, 2.4.1976, c. 118; 13.3.1981, c. 239-40; and 31.7.1987, c. 360.
  156. *Ibid.*, 29.1.1980, c. 1 and 170.
  157. *Ibid.*, 29.7.1987, c. 2-4.
  158. *Ibid.*, 29.8.1991, c. 225-26.
  159. *Ibid.*, 24.3.1992, c. 298-310.
  160. BAC mts., 10.7.1992 and R.S. Deb., 13.7.1992.
  161. R.S. Deb., 22.12.1980, c. 449, 461 and 466.
  162. *Ibid.*, 23.12.1980, c. 1-6 and 34-35.
  163. GPC mts., 23.11.1992 and F. No. 5(1)/90-LO.
  164. F. No. 54/92-T.
  165. R.S. Deb., 23.12.1992, c. 352.
  166. See also Chapter 6, *supra*.
  167. See Chapter 12, *infra*.
  168. BAC mts., 6.8.1992.
  169. R.S. Deb., 1.9.1997, c. 164-67.
  170. Bn. (I), 13.05.2012.
  171. See Chapter 12, *infra*.
  172. C.S. Deb., 13.5.1952, c. 1-2.
  173. *Ibid.*

## CHAPTER–12

### Oath or Affirmation by Members

#### **Legal provisions**

**B**efore taking his seat in the House, every member of the Rajya Sabha, elected either in a biennial election or bye-election or nominated by the President, is required to make and subscribe before the President, or some person appointed in that behalf by him, oath or affirmation according to the following form set out for the purpose in the Third Schedule to the Constitution<sup>1</sup>:

“I, A.B., having been elected (or nominated) a member of the Council of States (Rajya Sabha) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India<sup>2</sup> and that I will faithfully discharge the duty upon which I am about to enter”.

Pursuant to the provision contained in article 99, the President of India made the following Order dated 11 May 1952:

I, Rajendra Prasad, President of India, hereby appoint Dr. S. Radhakrishnan and Shri S.V. Krishnamoorthy Rao to be the persons before either of whom members of the Council of States may make and subscribe the oath or affirmation in accordance with the provisions of article 99 of the Constitution of India.<sup>3</sup>

The President of India made another Order dated 21 April 1956, superseding the above Order:

I, Rajendra Prasad, President of India, hereby appoint:

- (i) the Chairman,
- (ii) the Deputy Chairman,
- (iii) the persons competent to preside over the Council of States under clause (2) of article 91 of the Constitution of India,

to be the persons before any one of whom members of the Council of States may make and subscribe the oath or affirmation in accordance with the provisions of article 99 of the Constitution of India.

The Order of 1956 which is extant was read out to the House by the Secretary, Rajya Sabha, at the commencement of the sitting of the House before members were sworn in.<sup>4</sup>

When a member was about to take the oath on 6 August 1962, a point of order was raised by another member that according to article 99, for the purpose of administering the oath, appointment of a person before whom a member may make oath/affirmation has to be made by the President in the case of every member, i.e., every time a new member comes to take oath or makes affirmation, the Chairman has to intimate to the House that he has got the appointment from the President. The Chairman ruled out the point of order and held that the procedure being followed was absolutely regular and the appointment had been made by the President by an Order.<sup>5</sup>

Article 104 of the Constitution states that “If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so seats or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.”<sup>6</sup>

The rule 5 of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) states “A member who has not already made and subscribed an oath or affirmation in pursuance of article 99 of the Constitution may do so at the commencement of a sitting of the Council, or at such other time of the sitting as the Chairman may direct”.

The term of office of a member who is elected or nominated to the Rajya Sabha begins from the date of publication of the notification of such election or nomination, as the case may be, in the official gazette. While in case of election of a member to the Rajya Sabha notification is issued by the Ministry of Law and Justice (Legislative Department), in case of nomination the notification is issued by the Ministry of Home Affairs.

When the Secretary-General, Rajya Sabha gets a communication conveying the results of the biennial elections to the Rajya Sabha a congratulatory letter is sent by him/her to all the newly elected members at the addresses mentioned in the declaration of the results. In that congratulatory letter the newly elected members are informed that they should get in touch with the Notice Office on arrival in Parliament House. When they visit Table Office for submission of the certificate of their election and notification nominating him/her as a member they may also inform the language, as specified in the Eighth Schedule of the Constitution,

in which the concerned member would make and subscribe oath/affirmation. A photocopy of the oath/affirmation form given in the Third Schedule of the Constitution, is handed over to him/her with the request to bring it at the time of making and subscribing oath/affirmation.

### **Rights, etc., of a member before making oath/affirmation**

A member elected or nominated to the Rajya Sabha is entitled to make and subscribe the prescribed oath or affirmation and take his seat in the House only upon the commencement of his term of office under the relevant provisions of the Representation of the People Act, 1951.<sup>7</sup> He is not entitled to sit, participate and vote in the House *qua* member until he has taken the oath or made the affirmation. A member can be nominated and elected as a member of a select or other committee of the House but he cannot function as a member of such committee until he has made and subscribed the oath or affirmation and taken seat in the House. However, after the commencement of his term of office and even if he has not made and subscribed oath or affirmation, such a member is entitled to receive salary and allowances as a member.<sup>8</sup> He can be nominated to the panel of Vice-Chairmen though he can function as such only after he makes and subscribes oath or affirmation and takes his seat.

Acharya Narendra Deva who had not made oath or affirmation was nominated by the Chairman as one of the three members to constitute the first panel of Vice-Chairmen. His consent to serve as Vice-Chairman was received by the Chairman by a cable from him.<sup>9</sup> He was, however, sworn in on 14 July 1952.<sup>10</sup>

By an order dated 11 May 1952, referred to above, the President of India appointed Shri S.V. Krishnamoorthy Rao to be one of the persons before whom members of the Rajya Sabha could make oath or affirmation. He, however, took oath on 13 May 1952.

Members can also attend the President's Address to both Houses of Parliament assembled together without making the oath or affirmation.<sup>11</sup>

A member who has not taken a seat in the House can give notice of a question or a resolution and it can be included in the list of business but he cannot ask the question or move the resolution until he takes his seat after making the oath or affirmation.

A member had given notice of a calling attention. By the time it was admitted, he retired from the membership of the House. His name was dropped from the item of admitted calling attention which was listed on the day the member was sworn in. On a point of order raised by the member, the Chairman ruled that the notice lapsed on the termination of the membership of the concerned member. At the time the agenda was taken up, there was no notice by him.<sup>12</sup>

A member who has not taken the seat in the House has to ask for leave of absence from the sittings of the House in order to save his seat being declared vacant. A member may resign his membership of the House by addressing a letter to the Chairman before he makes and subscribes oath or affirmation and takes his seat in the House.

Dr. Zakir Husain and Shri R.K. Karanjia, nominated members and Shri Lal K. Advani and Shri Sunder Singh Bhandari, elected members were granted leave of absence though they had not taken oath or made affirmation.<sup>13</sup>

Shri M.C. Chagla, a member from Maharashtra resigned before making oath/affirmation, on 17 April 1962. His term of membership had commenced on 3 April 1962.<sup>14</sup>

Shri B.D. Behring, a member from Manipur resigned before making oath/affirmation on 10 April 1990, the date on which his term of office also commenced.<sup>15</sup>

Shrimati Leeladevi Renuka Prasad, a member from Karnataka resigned before making oath/affirmation, on 22 April 1996. Her term of office had commenced on 10 April 1996.<sup>16</sup>

### **Time limit for making oath/affirmation**

As stated earlier, the first act of a member after his election or nomination to the House is to make and subscribe oath or affirmation. The Constitution or the rules do not prescribe time limit within which a member has to do so. The penalty for sitting and voting before making oath or affirmation is laid down in article 104 of the Constitution of India which has been quoted in a previous para. Members are, therefore, expected to make oath or affirmation as soon as convenient to them after their election or nomination to the House.

Shri Lal K. Advani and Shri Sunder Singh Bhandari were elected in a the biennial elections held in 1976. Their term of office commenced on 3 April 1976. They made oath on 28 February 1977, i.e., nearly eleven months after they became members. After they took oath on that day a member wanted to know as to why the members concerned were taking oath after such a long time. The Deputy Chairman did not make any observation;<sup>17</sup> nonetheless, it was the only case when there was a long interval between the date of commencement of the term of a member and the date on which he took his seat in the House.

Incidentally, it may be mentioned that the Madhya Bharat High Court has held that an application for *quo warranto* does not lie on the ground that a member has not taken the oath and he is not, accordingly, entitled to be a member.<sup>18</sup>

### Procedure regarding oath/affirmation

#### (a) *Furnishing information regarding election/nomination by the member*

Before making or subscribing oath or/affirmation, a member has to furnish to the Secretary-General, the Certificate of Election granted by the Returning Officer under rule 85 of the Conduct of Elections Rules, 1961 or in case of nominated member, a certified copy of the notification issued by the Ministry of Home Affairs nominating him/her as a member and also Form-III as required under rule 4 of the Members of Rajya Sabha (Disqualification on Ground of Defection) Rules, 1985.

#### (b) *Informing member about the procedure*

After biennial elections, when large number of newly elected members are required to take oath/affirmation, members are informed *vide* Parliamentary Bulletin Part-II regarding the procedure for making oath/affirmation and that they may do so on the opening day of the ensuing session of the Rajya Sabha.

#### (c) *Time for oath/affirmation*

A member who has not already made and subscribed an oath or affirmation in pursuance of article 99 of the Constitution may do so at the commencement of a sitting of the House or at such other time of the sitting as the Chairman may direct.<sup>19</sup> The first item of business of a sitting of the House is oath or affirmation by members who have not already done so. When an intimation is received that a member elected/nominated in a casual vacancy has to make and subscribe oath or affirmation, an entry is made in the list of business to that effect. This practice has started since 26 August 1991. Prior to this, the list of business used to contain a general entry under the heading oath or affirmation: "Members who have not already done so, to make the prescribed oath or affirmation of allegiance to the Constitution". However, when a large number of members elected/nominated biennially have to make oath/affirmation, their names are not indicated but only a general item as above is included in the list of business. Even when the item regarding oath/affirmation by a member is not included in the list of business, if intimation is received that a member wants to take oath, he is permitted to do so.<sup>20</sup> Ordinarily, the oath or affirmation is made or subscribed during a regular sitting of the House. However, on 13 May 1952 and 17 April 1962, separate sittings were held for oath/affirmation by newly elected/nominated members.

On 13 May 1952, after the members were sworn in, the Chairman made an announcement:

“...the first call is over, and some of the members who did not respond when their names were called out may kindly assemble at 3 o’clock, and they may then take the oath or make the affirmation” and accordingly three members were sworn in<sup>21</sup>.

On 3 April 1972, the Chairman announced, “As the notice (of session) was short, any member who comes later in the day can take oath before the House adjourns” and accordingly two members were sworn during the post-lunch period, in between two items of business<sup>22</sup>.

Similar announcements were made on 4 April 1972 and 11 April 1972. Two members were sworn in the course of the day on 4 April 1972 and two other members were sworn on 11 April 1972, before the House rose for the day.<sup>23</sup>

Members have been permitted to make and subscribe oath or affirmation after the commencement of the sitting, at various timings such as at the fag-end of the last day of the session;<sup>24</sup> after the lunch-recess;<sup>25</sup> immediately after Question Hour was over and before the start of calling attention;<sup>26</sup> before the House adjourned for the lunch-recess<sup>27</sup> or reassembled thereafter;<sup>28</sup> at about 4 p.m.,<sup>29</sup> after mid-day (Leader of the House, Shri M.S. Gurupadaswamy was sworn after 12 noon);<sup>30</sup> at 6.14 p.m. five newly nominated members were sworn on the last day of the 168<sup>th</sup> Session having been nominated earlier in the day.<sup>31</sup> As the last item of the day (Shri Ejaz Ali elected in bye-election from Bihar took oath at 6.19 p.m. on 20 March 2008)<sup>32</sup>. Some of the members have also been permitted to make oath or affirmation at 2 p.m.<sup>33</sup>; at 1.35 p.m.<sup>34</sup> and at 12 noon.<sup>35</sup>

(d) *Order in which members are called*

Members elected in a biennial election are called by the Secretary-General for oath or affirmation State-wise and under each State, names of members are arranged in an alphabetical order.

On 22 April 1974, a member raised a point of order to suggest that newly elected members should be called according to alphabetical order in *Devanagari* and not English alphabets. The Chairman ruled out the point of order.<sup>36</sup>

If one of the members who is to make oath/affirmation has been appointed as the Leader of the House/Leader of the Opposition, he is called first to do so.

Shri N. Gopalaswami Ayyangar, the Leader of the House, was called first to make oath/affirmation and Shri S.V. Krishnamoorthy Rao, who was appointed as one of the members before whom also members

could make oath/affirmation, under article 99, was called next.<sup>37</sup> Shri C.C. Biswas, Leader of the Council was called first to take oath.<sup>38</sup> Shri Jaisukhlal Hathi<sup>39</sup> and Shri Pranab Mukherjee, Leaders of the House were also called first to make oath/affirmation on their election in 1968 and 1981, respectively. After oath/affirmation of members in 1981, the Chairman announced about the appointment of Shri Pranab Mukherjee as the Leader of the House by the Prime Minister.<sup>40</sup>

On 24 May 1996, the Chairman announced about the appointment of Shri Sikander Bakht as the Leader of the House. He also announced that he had recognised Shri S.B. Chavan as the Leader of the Opposition in the Rajya Sabha. Thereafter, he called Shri Sikander Bakht to make and subscribe oath. After him, Shri S.B. Chavan was called to do so. Rest of the members made and subscribed oath after them on that day.<sup>41</sup>

On 23 July 2001, the Chairman announced that he had recognised Dr. Manmohan Singh as the Leader of the Opposition in the Rajya Sabha and accordingly called him first to make and subscribe oath/affirmation. After him other members made and subscribed oath/affirmation on that day.<sup>42</sup>

On 5 July 2004, the Chairman announced that he had recognised Shri Jaswant Singh as the Leader of the Opposition in the Rajya Sabha and accordingly called him first to make and subscribe oath/affirmation. After him other members made and subscribed oath/affirmation on that day.<sup>43</sup>

On 24 April 2012, Shri Arun Jaitley, Leader of the Opposition in the Rajya Sabha was called first to make and subscribe oath/affirmation. Other members made and subscribed oath/affirmation after him on that day. After oath was made, the Chairman also made an announcement that he had recognised Shri Arun Jaitley as the Leader of the Opposition in the Rajya Sabha.<sup>44</sup>

Members who are not present for the swearing-in the first round are called again before the House proceeds to the next business. If they do not make the oath/affirmation on the first day, they may do so on the next or subsequent day whilst the House is sitting.

(e) *Form and language of oath/affirmation*

A member has to make and subscribe oath or affirmation in the prescribed form<sup>45</sup> which is, for convenience sake, handed over to him in advance or at the Table. The oath or affirmation may be made and subscribed by a member in any of the languages specified in the Eighth Schedule to the Constitution. For this purpose, the translated versions of the oath or affirmation as approved by the Ministry of Law (Official Language Wing) are adhered to.

On 22 April 1974, a member while taking oath used the Urdu word ‘Hind’ in place of ‘India’ or ‘Bharat’. Another member raised a point of order that the Constitution mentioned only ‘India’ and ‘Bharat’ and, therefore, it was not proper on the part of the concerned member who took oath in Urdu to have mentioned the word ‘Hind’. The Chairman observed:

‘Now, I hold that all the oaths have been rightly taken<sup>46</sup>.

Members are requested to intimate or indicate in advance the language in which they will like to make and subscribe oath or affirmation so that appropriate form of oath or affirmation is supplied to them.

If a member omits anything from the prescribed oath or affirmation, while reading it, which however, does not affect the substance thereof, the oath or affirmation is taken as read.

A member wanted to make affirmation but used the form of oath and while making affirmation omitted the reference to God in the form. Another member objected stating that the oath was not complete. The Chairman ruled that it should be taken as read.<sup>47</sup>

On 26 July 2010, Shri Rajiv Pratap Rudy made oath twice as the oath taken by him in Bhojpuri language was nullified, since that language was not included in the Eighth Schedule to the Constitution. He then made and subscribed oath in Hindi.

A member, while making oath or affirmation in the prescribed form, is not permitted to add or to say anything other than the prescribed oath or affirmation and if he does so, the same does not form part of the record.

When a member added something to the oath, some members raised objection that the member had taken a qualified oath and should take the oath again. The Chairman ruled:

The member has taken the oath as has been provided according to the form prescribed. After that, whatever he has said will not go on record.

So whatever that member had said was not recorded. When another member also said something while taking oath that was also not recorded.<sup>48</sup>

However, on an occasion, before making oath/affirmation, a member made certain observations regarding non-adoption of the Constitution of India through a vote on adult suffrage. The observations were recorded.<sup>49</sup>

On 26 July 2010, a member before making oath/affirmation made some remarks about the inclusion of Rajasthani language in the Eighth Schedule to the Constitution. However, that was not recorded.

(f) *How oath or affirmation is made*

On the name of a member being called by the Secretary-General, the member proceeds from the place he is occupying to the right-hand side of the Secretary-General's Table. A copy of the form of oath or affirmation, as the case may be, in the language of the member's choice is then handed over to him. The member faces the Chairman and while standing makes the oath or affirmation, then walks upto the Chairman's seat, shakes hands with or greets the Chairman and then passes behind the Chair to the other side of the Secretary-General's Table where he or she signs the "Roll of Members."<sup>50</sup> Members are informed of this procedure through a bulletin also.<sup>51</sup> When the Rajya Sabha first met on 13 May 1952, the Chairman had explained the procedure in the House.<sup>52</sup> After signing the Roll, the member takes his or her seat in the House.<sup>53</sup> This enables him/her to participate in the proceedings of the House at the earliest opportunity, for instance, asking a question, if already given notice of by him or her and admitted prior to his/her oath-taking or asking a supplementary question during Question Hour, etc.

A member who is physically unable to make and subscribe the oath or affirmation standing near the Table in the pit of the House may be permitted by the Chairman to make the oath or affirmation sitting from his seat, in which case an Officer at the Table carries the Roll of Members to that member to sign after he or she has taken the oath or made affirmation.

Shri Tridib Chaudhuri who was physically unable to go to the Table of the House made affirmation from one of the front benches, sitting, on 24 August 1993, and an Officer at the Table carried the Roll of Members to him for his signature.<sup>54</sup>

Shri George Fernandes who was physically unable to go to the Table of the House, took oath from his seat on 4 August, 2009, and an Officer at the Table carried the Roll of Members to him for his signature. Similarly, Shri Pankaj Bora also took oath from seat No. 62 on 27 December 2011 on medical grounds. An Officer at the Table carried the Roll of Members to him for his signature.

#### **Oath/affirmation in the Chairman's Chamber**

As stated above, oath or affirmation is made and subscribed during a regular sitting of the House. A departure was, however, made from this practice in 1994. The 170<sup>th</sup> Session (**Budget Session**) of the Rajya Sabha was adjourned on 18 March 1994, to meet again on 18 April 1994. During the recess, the Department-related Standing Committees were meeting for consideration of Demands for Grants of various Ministries. Biennial elections to the Rajya Sabha were held between February and March that year.

The term of office of the members so elected was to commence on 3 April 1994. Unless these members made and subscribed the oath or affirmation they could not have participated in the meetings of the Committees, to which they could be nominated. A proposal was, therefore, mooted that the newly elected members of the Rajya Sabha could make and subscribe the oath or affirmation in the Chairman's Chamber so as to enable them to participate in the meetings of the Department-related Parliamentary Standing Committees.

The proposal was placed before the General Purposes Committee of the Rajya Sabha. The Committee, after a detailed discussion, recommended that the newly elected members could make and subscribe the oath or affirmation on 4 April 1994, in the Chairman's Chamber. The option whether to make and subscribe the oath or affirmation in the Chairman's Chamber on 4 April 1994 or at a regular sitting of the House from 18 April 1994 was given to the members.<sup>55</sup>

Necessary intimation in this regard was accordingly sent to the concerned members as well as the leaders of various parties to which the members belonged.<sup>56</sup> A Parliamentary Bulletin was also issued for the purpose.<sup>57</sup> Accordingly, forty-six newly elected members out of fifty-seven made and subscribed the oath or affirmation on 4 April 1994, before the Chairman in his Chamber.<sup>58</sup> The procedure followed on this occasion was the same as described above, *i.e.*, names of members were called State-wise and alphabetically from each State by the Secretary-General. They took the oath or made affirmation in the language of their choice, shook hands with the Chairman and signed the Roll of Members at the Table of the Chairman. Leaders of some parties were also present. It was the first time that the oath or affirmation by members took place in the Chairman's Chamber. The oath-taking ceremony was televised and a press communique was also issued. The remaining members made and subscribed the oath or affirmation in the House on 18 April 1994, when it re-assembled after the recess.

Again, a member from Kerala who was re-elected in a biennial election from that State made affirmation before the Chairman on 5 July 1994 (at 5.00 p.m.).<sup>59</sup> The Prime Minister, Shri H.D. Deve Gowda took oath on 26 September 1996 (at 8.30 a.m.) on his election to the Rajya Sabha from Karnataka. Some members were present on those occasions which were covered by television and a press communique was also issued on each occasion.<sup>60</sup>

In 1997, five members, who were elected from the States of Andhra Pradesh, Tamil Nadu and Union territory of Puducherry, made and subscribed

oath or affirmation before the Chairman, Rajya Sabha in his Chamber. Similarly, Shrimati Shabana Azmi, nominated member, subscribed affirmation in the Chairman's Chamber on 27 October 1997.<sup>61</sup>

On 3 April 2002, thirteen members, who were elected from the States of Maharashtra, Odisha, Tamil Nadu and West Bengal, made and subscribed oath or affirmation in the Chairman's Chamber.<sup>62</sup> On 30 May 2002, four members, elected from the States of Arunachal Pradesh, Punjab, Tripura and Uttar Pradesh made and subscribed oath or affirmation in the Chairman's Chamber.<sup>63</sup>

On 13 June 2002<sup>64</sup> and 8 July 2002<sup>65</sup>, two members from the State of Jharkhand made and subscribed oath in the Chairman's Chamber.

On 18 September 2003, two nominated members namely, Shri Dara Singh and Dr. Bimal Jalan made and subscribed oath before the Chairman in his Chamber. Two other nominated members namely, Shri Vidya Nivas Misra and Shrimati Hema Malini made and subscribed oath before the Chairman in his Chamber along with two other elected members, Shrimati Kamla Manhar and Shri V. Narayansamy on 16 October 2003. Dr. K. Kasturirangan, a nominated member made and subscribed oath before the Chairman in his Chamber on 20 November 2003.<sup>66</sup>

Dr. Manmohan Singh, the Prime Minister and Shri Sachin Ramesh Tendulkar took oath in the Chairman's Chamber on 15 June 2007 and 4 June 2012, respectively<sup>67</sup>.

A practice has now evolved wherein newly elected/nominated members make and subscribe oath/affirmation in the Chairman's Chamber in Parliament House, when the Rajya Sabha is not in session, subject to the convenience of the Chairman. If permitted by the Chairman, Table Office informs concerned member(s), the Deputy Chairman, Leader of the House/Prime Minister, Leader of the Opposition, Leaders of Parties concerned, Minister(s) in-charge of the Ministry of Parliamentary Affairs about the oath taking ceremony. Concerned Branches/Sections of the Secretariat are also requested by the Table Office to make the necessary arrangements for the ceremony. A press release is issued after the ceremony. A Parliamentary Bulletin (Part-II) is also issued on the occasion.

### **Solemnity of the occasion**

Swearing of members is a solemn occasion. It is expected that nothing should be done by members in the House to mar or disturb the solemnity of the occasion. There were, however, occasions when members made observations when newly elected/nominated members were to make and subscribe oath or affirmation. Some such instances were:

When a newly elected member was about to take the oath, another member raising a point of order asked how those who violated the Constitution, spent money, indulged in cross-voting, bribing in the election, could be allowed to take the oath. The Chairman ruled that the concerned members whose election was duly notified were entitled to make the oath or affirmation. Thereafter, the member raising the point of order staged a walk-out.<sup>68</sup>

On an occasion when a member who was disqualified by the High Court for being a member on account of corrupt practice at the General Election to the Legislative Assembly, was about to take the oath on his election to the Rajya Sabha, a point of order was raised that because of the stay granted by the Supreme Court he should not participate in the proceedings of the House and that he should not be allowed to take the oath. The Deputy Chairman ruling out the point of order read the following portion of the Supreme Court's ruling:

“The petitioner/appellant is hereby permitted to take the oath of membership of Rajya Sabha on the condition that the petitioner/appellant...will attend the proceedings of the Rajya Sabha and sign the Register to mark his presence only to avoid disqualification of membership but shall not take part in the proceedings or voting and shall not draw any salary or allowances...”

Thereafter he was allowed to take oath.<sup>69</sup>

When two members were about to take the oath and another member wanted to say something, the Chairman did not permit and ordered that whatever the member had said was not to be recorded.<sup>70</sup>

On another occasion when a nominated member was about to be sworn, the Leader of the Opposition made certain observations and staged a walk-out along with his party members.<sup>71</sup> Again, when another member was about to take the oath, the Leader of the Opposition made certain observations and then staged a walk-out.<sup>72</sup>

There have been occasions when swearing-in proceedings had been interrupted by members who made submissions not connected with the oath or affirmation and thereby causing delay in the oath-taking. For instance, on one occasion before a member could be called to make affirmation, some members raised points regarding killings in Assam. The Chair expressed sorrow, the House observed silence and thereafter the member could make oath/affirmation.<sup>73</sup> On two occasions, the Chairman interrupted the proceedings to welcome the President, Inter-Parliamentary Council<sup>74</sup> and members of a Canadian Parliamentary Delegation<sup>75</sup> seated in the Special Box.

## NOTES AND REFERENCES

1. Art. 99.
2. The form of oath was substituted by the Constitution (Sixteenth Amendment) Act, 1963, to include, *inter alia*, the words "that I will uphold the sovereignty and integrity of India.
3. Bn. (I), 13.5.1952.
4. R.S. Deb., 23.4.1956, c.1.
5. *Ibid.*, 6.8.1962, c. 1-3
6. Art. 104.
7. Ss. 154 and 155.
8. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 3 *read with* s. 2(c)(b)(i) and (iii).
9. C.S. Deb., 16.5.1952, c. 45-46.
10. *Ibid.*, 14.7.1952, c. 991.
11. Bn. (II), 14.5.1952, 12.2.1954 and 22.5.1996.
12. R.S. Deb., 3.4.1970, c. 4-15.
13. C.S. Deb., 14.7.1952, c. 993; R.S. Deb., 22.2.1991, c. 166-67; 18.5.1976, c. 81-82; 24.8.1976, c. 104; and 12.11.1976, c. 2.
14. R.S. Deb., 19.4.1962, c. 91.
15. *Ibid.*, 10.4.1990, c. 4.
16. Bn. (I), 24.5.1996.
17. R.S. Deb., 28.2.1977, c. 3.
18. *Anand v. Ram Sahay*, AIR 1952 MB 31.
19. R. 5.
20. R.S. Deb., 21.3.1983, c.1; 3.9.1991 and 16.12.2013.
21. C.S. Deb., 13.5.1952, c. 8.
22. R.S. Deb., 3.4.1972, c. 1 and 185.
23. *Ibid.*, 4.4.1972, c. 2 and 166; and 11.4.1972, c. 1 and 182.
24. *Ibid.*, 31.8.1968, c. 5719.
25. *Ibid.*, 14.8.1969, c. 4198.
26. *Ibid.*, 31.3.1970, c. 111.
27. *Ibid.*, 3.4.1970. c. 15 and 50; and 22.4.1970, c. 103.
28. *Ibid.*, 4.4.1970, c. 68.
29. *Ibid.*, 14.5.1986. c. 138.
30. *Ibid.*, 10.4.1990, c. 24.
31. *Ibid.*, 27.8.1993, c. 544.
32. Bn. (I), 20.3.2008.
33. *Ibid.*, 2.7.2009.
34. *Ibid.*, 4.8.2009.
35. *Ibid.*, 6.8.2009.
36. R.S. Deb., 22.4.1974, c. 4-6.
37. C.S. Deb., 13.5.1952, c. 2.
38. *Ibid.*, 19.4.1954, c. 3303.
39. R.S. Deb., 29.4.1968, c. 1.
40. *Ibid.*, 17.8.1981, c. 1-2.
41. Bn. (I), 24.5.1996.
42. *Ibid.*, 23.7.2001.
43. *Ibid.*, 5.7.2004.
44. *Ibid.*, 24.4.2012.
45. Art. 99. and Third Sch.
46. R.S. Deb., 22.4.1974, c. 4-6.
47. *Ibid.*, 18.7.1986, c. 1.

- 
48. R.S. Deb., 25.4.1988, c. 1-9
  49. *Ibid.*, 17.4.1962, c. 3.
  50. HB, 2002, para. 4(iv).
  51. Bn. (II), 9.4.1990.
  52. C.S. Deb., 13.5.1952, c. 1-2.
  53. R. 6.
  54. *The Statesman*, New Delhi, 25.8.1993.
  55. GPC mts., 17.3.1994.
  56. F. No. RS. 6/94-T.
  57. Bn. (II), 21.3.1994.
  58. *Ibid.*, 4.4.1994.
  59. *Ibid.*, 5.7.1994; and F. No. RS. 6/94-T.
  60. *Ibid.*, 26.9.1996; and F. No. RS. 6/96-T.
  61. *Ibid.*, 15.10.1997 and 27.10.1997.
  62. *Ibid.*, 3.4.2002.
  63. *Ibid.*, 30.5.2002.
  64. *Ibid.*, 13.6.2002.
  65. *Ibid.*, 8.7.2002.
  66. F. No. RS. 6/2003-T.
  67. Bn. (II), 15.6.2007 and 4.6.2012.
  68. R.S. Deb., 29.4.1968, c. 1-2.
  69. *Ibid.*, 1.8.1968, c. 1565-71.
  70. *Ibid.*, 4.8.1986, c. 1.
  71. *Ibid.*, 29.5.1990, c. 1-2.
  72. *Ibid.*, 7.8.1990, c. 1-2.
  73. *Ibid.*, 21.2.1983, c. 2.
  74. *Ibid.*, 26.4.1982, c. 3.
  75. *Ibid.*, 23.4.1984, c. 2-3.

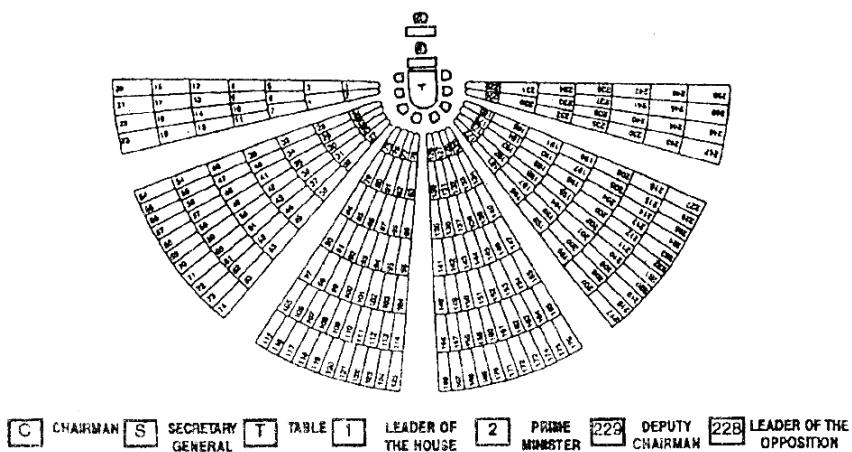
## CHAPTER 13

### Seating Arrangement in the Chamber

#### Seating capacity

The Rajya Sabha Chamber which is of semi-circular (or of horse-shoe) shape has a seating capacity for 250 members. It was the Chamber of Provinces and the Council of State prior to adoption of our Constitution. Originally, the Chamber had a seating capacity for 82 members only. The Chamber was remodelled to accommodate 216 members, the number fixed under the new Constitution. In 1957, when the Automatic Vote Recording (AVR) equipment was installed, the seating capacity was increased to 250, the maximum number provided under the Constitution as amended in 1956.<sup>1</sup> The Chamber is divided into six blocks (or slices of a cake) each with seven rows. The first and the sixth block consist of twenty-three seats each and each of the remaining blocks (two to five) consists of fifty-one-seats. The seats are numbered consecutively block-wise starting from the first seat to the right of the Chair in the first block and then in the second block and so on. Till 1957, the numbering of seats was done by rows in semi-circle (instead of block-wise) starting from the right of the Chair. This arrangement was changed to suit the requirements of the indicator board of the AVR system, which has been connected block-wise.<sup>2</sup> The following diagram will give an idea of the general plan of the Chamber and seating arrangement.

SEATING ARRANGEMENT



### **Presiding Officer's Chair**

The Chair of the Chairman, Rajya Sabha, is placed at a higher elevation right at the centre of the Chamber connecting two ends of the semi-circle. On the wooden panel of the Chairman's Chair, there is an inscription "Heavens Light our Guide" (words from a Biblical prayer). Overlooking the Chamber and fixed on the wood work facing the Chairman's seat is a portrait of late Dr. S. Radhakrishnan, the first Chairman of the Rajya Sabha. In the pit of the Chamber, just below the Chair, is the seat of the Secretary-General along with other officers and official reporters who assist in the work at the Table.

To the right of the Chair is located the Official Gallery meant for the use of the officials required to be in attendance to assist Ministers in connection with the business of the House. To the left of the Chair is the Special Box reserved for the special guests and high personages like the members of the visiting parliamentary delegations from foreign countries whom the Chairman would, in his discretion, like to accommodate for watching the proceedings of the House.

On the first floor of the Chamber are located the various galleries (Public Gallery, Distinguished Visitors' Gallery, Diplomatic Gallery, Press Gallery and Lok Sabha Members' Gallery). Maroon colour of the floor coverings, upholstery and furnishing distinguishes the Rajya Sabha Chamber and its Lobbies from that of the Lok Sabha's green colour.

### **General seating arrangement**

Members sit in such order as the Chairman may determine.<sup>3</sup> According to the well-established convention, members belonging to the ruling party are given seats on the right side of the Chair and members belonging to the opposition parties are given seats on the left side of the Chair.

The first seat on the right side of the Chair is reserved for the Leader of the House and the second seat for the Prime Minister. The first seat to the left side of the Chair is reserved for the Deputy Chairman and the seat next is reserved for the Leader of the Opposition. Until the time, when there was no recognised Leader of the Opposition, the seat was allotted to the Leader of the Opposition group which had the largest number of members affiliated to it.<sup>4</sup>

In 1952, no definite rule was laid down as to the manner in which seats were to be allotted in the Council. For the sake of convenience and for enabling members belonging to particular groups to act in consultation with each other during the proceedings of the House, certain number of seats were allotted for those groups. At the same time, a few seats were allotted to some members in their individual

capacity whether representing a particular party or not, by virtue of their long standing in public life.<sup>5</sup> Certain opposition members were also allotted seats,<sup>6</sup> as far as possible, in the front row.<sup>7</sup> These seats were allotted to the members in their names and a card bearing the name of the member to whom the specific seat was allotted used to be affixed to the seat so allotted. The system of affixing the name labels of the members on their respective seats was changed since the monsoon session of 1957 and from then onwards the labels indicating the names of the groups to which the respective seats had been allotted were being affixed. Rest of the members of the opposition groups were, as far as possible, given seats in the rows immediately behind the seats of their leaders.<sup>8</sup> So far as the members of the ruling party and other members for whom seats were not specifically allotted were concerned, they occupied the remaining seats and continued to do so throughout a session.<sup>9</sup>

In 1957, after the installation of the AVR equipment, seats were numbered block-wise and allotted to the ruling party and three opposition groups (Communists-11, Democratic Group-8, and PSP Group-3) in consultation with the party/group leaders concerned (Deputy Chief Whip in case of Congress Party) and to independents and others as per the directions of the Chairman.<sup>10</sup>

The installation of AVR equipment for taking votes in a division in 1957 made it imperative that each member was allotted a specific seat which would also be his division number in the Chamber and that he occupied the allotted seat. Since then each member is now allotted a fixed seat from where he has to address the House,<sup>11</sup> unless otherwise permitted by the Chair. The Chair often permits members who are inaudible when speaking from their seats to come to the front or the seat from where they could be audible and address the House. But this facility is available only with the permission of the Chair.<sup>12</sup>

On one occasion, the Chair has observed that a member might be allowed by the presiding officer to speak from a place other than his seat. On 24 July 1974, the Deputy Chairman asked Shri S.A. Hashmi to come near the mike and speak. When Shri Raj Narain raised a point of order that it was not the seat of the member and by leaving his seat and coming nearer the mike he had shown disrespect to the House, the Deputy Chairman observed:

“I have permitted Shri Hashmi to speak from this place because the Reporters cannot hear him from his seat. This is no point of order. On several other occasions, people have been permitted to come near the mike from their seats and on several occasions, members of this House, both from the opposition and the ruling party, have been permitted to come near the mike so that the Reporters can hear them properly and taken down. Even if a seat

---

is not the seat of a particular member, it is up to the discretion of the Chair to allow him to speak from there. Sometimes, some members have been allowed to speak even while sitting also. So, there is no point of order in this.”

At the time of a division to record his/her vote, a member has to press the Vote Activation Button with one hand and one of the voting buttons of his/her choice as provided on the Voting Console in front of the seat with other hand otherwise the Individual Result Display Panel located on the either side of the Presiding Officer’s seat and the main board installed in the machine room would not present a true picture of his/her voting. After allotment of a seat, a member is informed of his/her division number by a letter and he/she is requested to memorise that number and quote the same in every notice/communication addressed to the Secretary-General. A paragraph is also issued in the Parliamentary Bulletin Part-II for the purpose.<sup>13</sup>

### **Allotment of seats**

Recognised parties and groups are allotted blocks of seats in proportion to their respective strength and the total number of seats available in the House. For the purpose of allotment of blocks of seats, recognised parties/groups are those which have minimum strength of five members.<sup>14</sup> Individual allotment of seats within a block of seats is made in consultation with the Leader/Whip of the party or group concerned. Seats to members belonging to small or unrecognised groups, independents or nominated members not belonging to any party/group, are allotted by the Chairman. Members of such groups who form an association for the purpose of floor functioning and who express a desire to sit together are, as far as possible, allotted contiguous seats.

In 1983, 22 members of the Rajya Sabha belonging to different political parties had requested the Chairman, for recognition of their association as United Association of Members (UAM). The Chairman accorded recognition for the limited purpose of functioning in the House, namely, allocation of time for participation in debates and allotment of contiguous seats in the Chamber.<sup>15</sup>

In 1990, six members of the Rajya Sabha belonging to different political parties had resolved to function as a group for the purpose of floor coordination and time sharing in the Rajya Sabha. The Chairman recognised them as a group to act as United Parliamentary Group (UPG). The strength of the group varied from time to time and with the retirement of those members on completion of their term of office the group ceased to exist.<sup>16</sup>

As mentioned earlier, the Deputy Chairman is allotted the first seat in the first row on the left of the Chair. The Leader of the Opposition is allotted a seat next to the Deputy Chairman.

Until 1977, the Leader of the Opposition in the Rajya Sabha was not enjoying any statutory status. The leader of the Communist Party, which functioned as a recognised group until the split in that party in 1964 was allotted a seat next to the Deputy Chairman and other members of that party were allotted contiguous seats behind the leader of that party. It lost its recognition later on with a diminution in its membership and its place was taken by Communist Party of India (Marxist). After the split in the Congress Party in November 1969, a new party called Congress (O) was formed by some members. It was recognised for the first time as the Opposition Party and its leader was allotted a seat next to the Deputy Chairman.<sup>17</sup>

Members who had been Leaders of the House are allotted seats in the front row facing the Chair. The first row of each of the three blocks to the right of the Chair is ordinarily reserved for the Ministers who are members of the Rajya Sabha. Seats are allotted to them in consultation with the Leader of the House or the Minister of Parliamentary Affairs. Ministers who are not members of the Rajya Sabha are not allotted seats. If any seats remain vacant in these rows, such seats may be occupied by them while they are present in the House for business.

The seat of Shri Mukul Roy (AITC) upon his appointment as Minister of State in the Ministry of Shipping, was changed from 173 to 84 on 3 June 2009.

When requests are received from more than one member for allotment of a particular seat, the request is examined before a decision is taken in the matter.

Shri D. Raja (CPI) had requested for allotment of seat No. 132 (second row) in 2008 as well as in the beginning of 2009. At the same time, the issue of allotment of a seat to Prof. Ram Gopal Yadav, who was elected to the Rajya Sabha in November, 2008, also came up. Taking into consideration the fact that Prof. Yadav was a senior member having two previous terms in the Rajya Sabha and one term in the Lok Sabha, and was also a former leader of the Samajwadi Party, and the fact that Shri D. Raja was a first time member, it was decided to allot seat No. 132 to Prof. Ram Gopal Yadav.<sup>18</sup>

There are twenty front seats in the first row. Out of them four seats are earmarked for the Leader of the House, the Prime Minister, the Deputy Chairman and the Leader of the Opposition as already mentioned.

The remaining sixteen seats are divided amongst different recognised parties/ groups in proportion to their numerical strength. The front row seats are primarily meant for the leaders of various groups in the Rajya Sabha having a strength of at least five members.<sup>19</sup> If, however, a seat is not available for the leader of such a group in the front row, he is allotted a seat in the next available row for the time being until a front row seat becomes available for allotment to him, and the strength of his group continues to be five or more members.

After biennial election in 1994, the Samajwadi Party emerged as a five member party but due to non-availability of a seat in the front row, its leader (Prof. Ram Gopal Yadav) continued to occupy a seat in the third row.<sup>20</sup>

After biennial election in 2002, the Bahujan Samaj Party emerged as five member party in Rajya Sabha but due to non-availability of a seat in the front row, its leader (Shri Kanshi Ram) continued to occupy a seat in the third row.<sup>21</sup>

Allotment of seats within the blocks reserved for the Government Party is done in consultation with the Government Chief Whip. Generally, members who are re-elected are allotted the seats which were occupied by them earlier as far as possible or seats nearby; former Ministers, Governors, etc. are allotted seats behind the seats of Ministers; prominent or active members are given seats in the front rows, new members are allotted seats according to their standing in public life, etc. Members who had been Leaders of the House at one time or another are also allotted front row seats irrespective of their party/group affiliation.

Shri Kamlapati Tripathi, Shri Lal K. Advani, Shri K.C. Pant, Shri Pranab Mukherjee, Shri V.P. Singh, Shri M.S. Gurupadaswamy and Shri P. Shiv Shanker, all former Leaders of the House were allotted front row seats in the Chamber.<sup>22</sup>

Requests of members returned in bye-elections for changes in the allocation of seats already made are dealt with by the Chief Whip and any changes agreed to by him are effected after the approval of the Chairman. Ordinarily, once seats are allotted to members, no changes are made during the currency of the session unless they are absolutely essential and even if few changes are made, care is taken that these changes do not upset the general seating arrangement till the end of the session.

The 70<sup>th</sup> Session of the Rajya Sabha commenced on 17 November 1969. There was a split in the Congress Party on 18 November 1969. The seating arrangement plan in the Chamber was accordingly changed.<sup>23</sup>

In 1990, during the second part of the 153<sup>rd</sup> session, 69 members who were elected in biennial elections made and subscribed oath or affirmation on 9 and 10 April 1990 and thereafter took their seats in the Chamber. The seating arrangement plan in the Chamber was accordingly changed twice.<sup>24</sup>

On 5 November 1990, Shri V.P. Singh, Leader of the Janata Dal in Parliament, had stated that five members of that Party had been expelled for anti-party activities. Thereafter, the said five members along with ten other members claimed a split in the original party which occurred on 5 November 1990 and formation of a new party called Janata Dal (Samajwadi). The Chairman recognised Janata Dal (Samajwadi) as a group for the purpose of functioning in the House and members were informed about the new party Janata Dal (Samajwadi) since that party happened to be the ruling party then. Seating arrangements in the Chamber were changed accordingly.<sup>25</sup>

As announced in the House by the Chairman on 2 January 1991, the Congress(I) ceased to be the main opposition party in the Rajya Sabha. Consequently, suitable revision in the seating arrangements in the House were made in consultation with the leaders of parties with effect from 7 January 1991, to their satisfaction. A member of the opposition while putting a supplementary to a question on that day said "...before I ask my supplementary may I be allowed to say that we are all deeply satisfied with the new seating arrangements in the House".<sup>26</sup>

Parties and groups in the Opposition are allotted blocks of contiguous seats in proportion to their strength, starting from the left of the Chair. A party or group having the largest membership is allotted seats to the extreme left, the party or group having the next largest membership to the left of that party or group and so on. Senior members of the House are allotted prominent seats and in appropriate cases, in the front rows without consideration of party or group to which they belong.<sup>27</sup>

Where the numerical strength of a party or group undergoes a change, the seats are reallocated to it in proportion to its new strength. However, if such a change comes about a few days before the conclusion of the session or the party is likely to regain its strength in the impending biennial elections, *status quo* is maintained in the seating arrangement.

Six members of the Rajya Sabha from the State of West Bengal retired on 9 July 1993. The 168<sup>th</sup> Session commenced on 26 July 1993. The strength of the CPI(M) was reduced to eleven and the strength of Janata Dal (Samajwadi) was twelve. *Status quo* was maintained in the seating arrangement till the impending biennial election in that State.<sup>28</sup>

Individual members of smaller groups are allotted seats by the Chairman. They may, in the discretion of the Chairman, be allotted contiguous seats or, on a request made in that behalf, be permitted to swap their seats.

So far as nominated members are concerned, seats are allotted to them ordinarily in the fourth and the fifth blocks facing the Chair, except to those who belong to a political party in which case they are accommodated in the blocks reserved to that party.

Before coming into force of the Constitution (Fifty-second Amendment) Act, 1985 and the rules made thereunder, out of eleven nominated members, nine had joined Congress(I) (Dr. Lokesh Chandra, Shri Scato Swu, Shri V.C. Ganesan, Shri Thindivanam K. Ramamurthy, Shri Madan Bhatia, Shri Purshottam Kakodkar, Shri H.L. Kapur, Shri Ghulam Rasool Kar and Shri Hayat Ulla Ansari). They were allotted seats in the Congress(I) block.<sup>29</sup> Similarly, in the year 2003, out of the seven nominated members, three joined Bharatiya Janata Party (Shrimati Hema Malini, Dr. Narayan Singh Manaklao and Shri Dara Singh) and they were allotted seats in the BJP block.<sup>30</sup>

In the year 2010, out of the five nominated members, three joined Indian National Congress (Dr. Ram Dayal Munda, Dr. Bhalchandra Munegkar and Shri Mani Shankar Aiyar) and they were allotted seats in the INC block.<sup>31</sup>

When a member had been returned in a bye-election or nominated in the midst of a session comes to make and subscribe the oath or affirmation in the Rajya Sabha Chamber, is seated in the seat either in the block where colleagues are sitting or in case no seat is available in that block, in a seat adjacent to that block temporarily.

When any new party or group is formed due to split or merger in terms of paragraphs 327b and 4 of the Tenth Schedule to the Constitution, re-arrangement of seats is made accordingly.

The Leader of the Lok Dal group in the Rajya Sabha intimated about the expulsion of three members belonging to it. Since the three expelled members had contested the expulsion and did not claim a split, the two factions were informally recognised as Lok Dal-I and Lok Dal-II, and seats were allotted accordingly.<sup>32</sup> During the 143<sup>rd</sup> Session (27 July 1987 to 31 August 1987) the Leader of the Lok Dal-I was allotted a front row seat.<sup>33</sup>

In 1988, the Lok Dal (A) (corresponding to Lok Dal-II in the Rajya Sabha) merged with the Janata Party. Thereafter, Shri Virendra Verma, Leader, Lok Dal-I was allotted a front row seat.<sup>34</sup>

In 1988, the AIADMK group in the Rajya Sabha consisted of eleven members. A faction of that group claimed a split in the group. Since the claim of split fulfilled the requirements of paragraph 3 of the Tenth Schedule to the Constitution, the two factions of AIADMK were designated as AIADMK-I and AIADMK-II for limited purpose of functioning in the House. Leaders of both the factions were allotted front row seats.<sup>35</sup>

In 1994, three members belonging to Janata Dal (S) which consisted of eight members informed the Chairman that there was a split in the Party and the new Party was called Rashtriya Janata Dal. This was noted and the new faction of three members was allotted seats in a separate block.<sup>36</sup>

In 1994, Telugu Desam Party had three members. Shrimati Renuka Chowdhury claimed a split in that Party while its leader maintained that she was expelled from the Party. The Chairman designated the Telugu Desam Party of two members as TDP-I and that of Shrimati Renuka Chowdhury as TDP-II for limited purpose of functioning in the House and her seat was also changed in the midst of the session.<sup>37</sup>

In 1997, the Leader of the AIADMK group in the Rajya Sabha intimated about the expulsion of seven members belonging to it. Seven members had contested the expulsion and did not claim a split, the two factions were designated as AIADMK-I and AIADMK-II. Subsequently, AIADMK-II got split into two and the faction was designated as AIADMK-III seating arrangements in the Chamber were changed accordingly.<sup>38</sup>

In 1997, the Janata Dal in the Rajya Sabha consisted of 23 members. A faction of that group claimed a split. Since the claim of split fulfilled the requirements of paragraph 3 of the Tenth Schedule to the Constitution, the two factions were designated as the Janata Dal and the Rashtriya Janata Dal. The leader of both the groups were allotted front row seats.<sup>39</sup>

In 1998, Shri Dilip Ray, member of the Janata Dal from Orissa, along with four other members claimed a split in that party. Since the claim fulfilled all the requirements under the Tenth Schedule, the party was recognised as 'Biju Janata Dal' and accordingly, allocation of seats were made.<sup>40</sup>

In 1998, a lone member of the Telugu Desam-I, Dr. D. Venkateshwara Rao, merged his party with BJP. Similarly, other lone member of AIADMK- III, Shri P. Soundararajan, merged his party with AIADMK-I. After respective merger of these parties, the seats were allotted to these members in the blocks earmarked to respective parties.<sup>41</sup>

In 1999, Shri Suresh Kalmadi, a lone member of the Maharashtra Vikas Aghadi Party merged his party with the Indian National Congress and was accordingly, allotted a seat in the INC block.<sup>42</sup>

In 2001, three Rashtriya Janata Dal members, Shri Ranjan Prasad Yadav, Ven'ble Dhammaviriyo and Shri Mahendra Prasad had been expelled from the party. With the expulsion of these members the strength of Rashtriya Janata Dal had been reduced to seven from ten, which was less than Samajwadi Party, which had nine members. This was noted and the seats of both these parties were swapped in the Chamber.<sup>43</sup>

In 2001, Shri R.K. Anand, a lone member of the Jharkhand Mukti Morcha, merged his party with the Indian National Congress and was accordingly allotted a seat in the INC block.<sup>44</sup>

In 2003, the Tamil Maanila Congress Party (Moopanar) merged with the Indian National Congress in the Rajya Sabha which had two members (Shri G.K. Vasan and Shri B.S. Gnanadesikan). This was noted and they were allotted seats in the INC block.<sup>45</sup>

The seat of Dr. Anbumani Ramadoss, member belonging to Pattali Makkal Katchi (PMK) Party was changed from 30 to 136, on 3 June 2009 following the separation of his party from the ruling United Progressive Alliance.<sup>46</sup>

The Jharkhand Mukti Morcha (JMM) merged with the All India Trinamool Congress (AITC) w.e.f. 15 November 2010. Accordingly, the seat of Dr. Kanwar Deep Singh who was the lone member from the JMM party, was changed from 224 to 122 to bring him closer to other members of the AITC party.<sup>47</sup>

In cases when individual requests are received from member(s) for change of seat on medical grounds, the issue is taken up with the Leader of the Party concerned, if required, and decided accordingly.

Shri Ravi Shankar Prasad, had requested on 2 July 2009 for allotment of an aisle seat with arm rest due to medical reasons. This request was acceded to and he was allotted seat no. 186, an aisle seat on mutual exchange with Shri N. Balaganga.<sup>48</sup>

In cases when a member is expelled from his party and is shown as a 'Member without Party Affiliation' in the records, a different seat away from that political party is allotted to him.

Shri Isam Singh, a member belonging to the Bahujan Samaj Party was expelled from the party w.e.f. the 3 September 2006. On a written request for allotting him a different seat, he was allotted a new seat.<sup>49</sup>

Shri Amar Singh was expelled from the Samajwadi Party on 23 February 2010. Following this, his seat was changed from 13 to 82 w.e.f. that date. Later, on 29 July 2010 his seat was again changed from 82 to 160, close to other independent members.<sup>50</sup>

Upon a request received from Shri Shashi Bhusan Behera, Leader of the Biju Janata Dal (BJD) in the Rajya Sabha, the seat of Shri Pyarimohan Mohapatra was changed from 130 to 156 following his expulsion from the party.<sup>51</sup>

Similarly, the seat of Shri Ram Jethmalani was changed from 182 to 161 following his expulsion from the Bharatiya Janata Party (BJP).<sup>52</sup>

#### NOTES AND REFERENCES

1. F. Nos. CS./13/52-GA and 38/1/57-T.
2. F. No. 38/1/57-T.
3. R. 4.
4. F. No. CS/13/52-GA.
5. *Ibid.*
6. *Ibid., and Bn. (II), 14.7.1952.*
7. F. No. 35/1/57-T.
8. F. No. 10/1/57-T.
9. F. No. CS/13/52-GA/T.
10. F. No. 35/1/57-T.
11. R. 237.
12. R.S. Deb., 31.3.1970, c. 186; and 23.3.1982, c. 372-73.
13. For instance, Bn. (II), 15.4.1994.
14. F. Nos. 13/87-T, 13/89-T and 13/90-T.
15. F. No. 11/83-T.
16. F. No. 11/90-T.
17. R.S. Deb., 17.11.1969, c. 107-12.
18. F. No. RS.13/2009-T.
19. F. Nos. 13/87-T, 13/89-T and 13/90-T.
20. F. No. 13/94-T.
21. F. No. 13/2002-T.
22. F. Nos. 13/82-T, 13/85-T, 13/86-T, 13/87-T, 13/90-T and 13/91-T.
23. R.S. Deb., 17.11.1969, c. 124.
24. F. No. 13/90-T.
25. F. Nos. 46/90-T, 13/90-T; and Bn. (II), 24.12.1990.
26. F. No. 13/91-T; R.S. Deb., 2.1.1991, c. 835-43; and 7.1.1991, c. 28.
27. F. No. 13/87-T.
28. F. No. 13/93-T.
29. F. No. 11/85-T.
30. F. No. 11/2003-T.
31. Paragraph 3 of the Tenth Schedule to the Constitution pertaining to the exemption from disqualification in case of split in a Legislature Party was omitted *vide* the Constitution (Ninety-first Amendment) Act, 2003.
32. F. No. 11/87-T.
33. F. No. 13/87-T.
34. F. No. 13/88-T.
35. F. No. 13/88-T.
36. F. No. 13/94-T. and Bn. (II), 6.5.1994.
37. *Ibid., and Bn. (II), 5.8.1994.*
38. F. No. 46/97-T.
39. *Ibid.*
40. F. No. 46/98-T.
41. *Ibid.*

- 
- 42. F. No. 46/99-T.
  - 43. F. No. 11/2001-T.
  - 44. F. No. 46/2001-T.
  - 45. F. No. 46/2003-T.
  - 46. F. No. RS.13/2009-T.
  - 47. F. No. RS.13/2010-T.
  - 48. F. No. RS.13/2009-T.
  - 49. F. No. RS.13/2006-T.
  - 50. F. No. RS.13/2010-T.
  - 51. F. Nos. RS.13/2012-T and RS.11/2012-T.
  - 52. F. No. RS.13/2013-T.

## CHAPTER–14

### Leave of Absence to Members

**W**hen members are elected or nominated, they are expected to take their seats in the Rajya Sabha and attend its proceedings unless they are constrained to remain absent due to unavoidable reasons.

#### **Constitutional and legal provision**

The Constitution of India provides that if for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant.<sup>1</sup> In computing the said period of sixty days, however, no account is taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.<sup>2</sup>

The period of sixty days referred to in the Constitution means a single unbroken period of sixty days and for invoking the provision of the Constitution, the absence has to be continuous. The period of absence is calculated from the day a member is absent from the sitting of the House till the day he next attends, whether in the same or subsequent session(s). The intervening days in session on which the House does not sit are counted but any period of prorogation or adjournment of the House for more than four consecutive days is excluded.

The constitutional provision is only directory and not mandatory; being an enabling power, it is within the competence of the House to condone the absence of a member exceeding a period of sixty days.<sup>3</sup>

Apart from aforementioned provision enshrined in the Constitution, rule 214 of the Rules of Procedure and Conduct of Business in the Rajya Sabha also deals with the procedures relating to leave of absence of members from meetings of Council.

#### **Attendance Register**

In view of the specific provision that has been made in the Constitution, it has become necessary to maintain a Register of Attendance of members. Such a Register is maintained by the Secretariat to enable members to record their attendance. Before entering the House, a member has to record his presence by signing the Register every day. For the

convenience of members the Attendance Register is split into four parts containing the Division Numbers, namely: (1) Division Nos. 1 to 61; (2) Division Nos. 62 to 127; Division Nos. 128 to 195; and (4) Division Nos. 196 to 250. Each part is kept on a separate rostrum in the Inner Lobby of the House. Members are informed of this arrangement through a paragraph in the Parliamentary Bulletin Part-II issued at the commencement of every session.<sup>4</sup> The Register remains on the rostrum throughout the sitting of the House. After the adjournment of the House each day, all the four parts are collected and on the basis of the same, the attendance of members is marked with 'P' in a Consolidated Attendance Register kept in the Lobby Office. When a member informs in writing that he forgot to sign the Attendance Register on any particular day although he was present in the House, his statement in original is tagged with the corresponding attendance sheet without marking his presence in the Register. This gives a complete record of the attendance of members and helps to compute the period of continuous absence of members. The attendance of members is also reflected in the Rajya Sabha website.

The Attendance Register which was originally introduced as an informal and convenient arrangement for marking attendance of members is now a statutory requirement with effect from 9 June 1993. A new proviso added to section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, which reads as follows:

Provided that no member shall be entitled to the aforesaid allowance (*i.e.*, D.A.) unless he signs the register, maintained for this purpose by the Secretariat of the House of the People or the Council of States, as the case may be, on all the days (except intervening holidays for which no such signing is required) of the session of the House for which the allowance is claimed.

Payment of daily allowance to a member is, therefore, dependent upon his signing the Register.<sup>5</sup> In view of the express provision made in the Act, a practice has been introduced to furnish daily record of the attendance of members to the Pay and Accounts Office and Members' Salaries and Allowances Branch of the Secretariat to enable them to clear members' daily allowance claims.<sup>6</sup>

The Register is also utilised for reminding a member about the constitutional provision in respect of attendance of members. As soon as a member completes forty days of continuous absence without permission of the House, the Secretariat informs him about it so that he may apply for leave of absence in time. A reminder is sent to him when his continuous absence comes to fifty days. If a member is continuously absent from the sittings of the House for sixty days or more, without permission, his attention

is drawn to the constitutional provision and the relevant rules and he is advised to apply for leave of absence for the period, stating the reasons necessitating his absence.

### **Procedure for obtaining leave of absence**

A member wishing to obtain permission of the House for remaining absent from meetings thereof under clause (4) of article 101 of the Constitution is required to make an application stating the period for which he may be permitted to be absent from the meetings of the House.<sup>7</sup> The member is required specifically to ask for leave. No action is taken on a communication of a member which merely intimates that he will not attend the session but does not ask for leave.<sup>8</sup>

An application for leave of absence is required to be made in writing addressed to the Chairman of the Rajya Sabha. It is necessary that the application should be made and signed by the member himself and it should be addressed to the Chairman. However, on occasions, leave of absence has been granted on the basis of a telegram<sup>9</sup> or cable.<sup>10</sup>

Sometimes the leave application has also been entertained when the member has addressed it to the Secretary-General instead of the Chairman.<sup>11</sup> If a member is unable to apply for leave of absence himself in writing for reasons of health and another member has applied on his behalf, such an application has also been entertained and leave granted to the member on that basis.<sup>12</sup> In a case, however, where an adviser of a member who was unwell requested for leave of absence on behalf of the member, the adviser concerned was informed that the leave application should be sent under the member's own signature, which he did.<sup>13</sup>

A letter, dated the 29 July 2010, was received from Shri Sitaram Yechury, Leader of the CPI (M) Party in the Rajya Sabha, stating that Shri P.R. Rajan, MP, was admitted in ICU in a Hospital at Ernakulam, Kerala, due to serious neurological problem and sought leave of absence from the House for Shri P.R. Rajan. It was decided that since the letter is from the Leader of the Party and the member for whom leave is applied for is also from the same Party, and in view of the serious nature of illness, leave of absence was granted to Shri P.R. Rajan for the 220<sup>th</sup> Session.<sup>14</sup>

The period for which leave of absence is required by a member must not exceed sixty days in view of the constitutional provision. Strictly speaking, under the constitutional provision, it is not necessary to take the permission of the House for leave to remain absent for less than sixty days but to be on the safer side members apply for leave of absence without waiting for completion of the maximum period of absence of sixty days. The Rules Committee considered but did not agree to a suggestion that

rule 214 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, which deals with the leave of absence, should be amended to specifically provide that an application for leave of absence should not at any time exceed sixty days.<sup>15</sup> Generally, therefore, requests for leave of absence have been granted for specific periods such as the beginning or end of a month in a year<sup>16</sup> or after a particular date during the session<sup>17</sup> or for a number of sittings or weeks or days<sup>18</sup> or a part of session<sup>19</sup> or retrospectively for absence during previous sessions.<sup>20</sup>

The current practice is that generally leave is granted for the entire session. Only in case where leave asked for is for a period exceeding ten days in a session, the leave application is placed before the House. Leave application for a period of less than ten days is not placed before the House.<sup>21</sup> In case a member asks for leave of absence for a part of the session, it is not put to the House if the member has already attended the session for a day or days<sup>22</sup> or his absence is not going to reach the total of sixty or more days. In case the leave of absence is asked for a part of the session, sometimes the application is kept pending and put to the House only when the member does not attend after the specified period.<sup>23</sup> If a member asks for conditional leave *i.e.* leave in case he is not able to attend by a particular date during the session, the application is kept pending until he attends by the date specified or a further communication is received from him and if he fails to attend, his leave application is placed before the House towards the end of the session for grant of leave.<sup>24</sup>

Ordinarily, while applying for leave, members mention the grounds on which leave is asked for. The following are some of the grounds on which members have asked for leave of absence:

- i. illness of self;
- ii. illness, accident, mishap, death, marriage in the family or performance of obsequies, etc.;
- iii. visits abroad for professional work or participation in conferences or UNO/UNESCO meetings as a delegate, for study or to fulfil family obligations, etc.;
- iv. pre-occupation with professional work as a doctor, artist, etc.;
- v. arrest/detention;

On a point of order whether leave of absence should be granted to members going to jail, the Chairman ruled in the affirmative observing: “If they are unable to attend whatever be the reason.”<sup>25</sup> During the Emergency, leave of absence was granted to a number of members on

account of their detention. A member in detention was granted leave of absence "on account of his non-transfer to Tihar Jail, Delhi to attend the session".<sup>26</sup>

Shrimati Kanimozhi, MP who was in the judicial custody, was granted leave of absence for the entire 223<sup>rd</sup> Session of the Rajya Sabha. As she continued to be in the judicial custody, the question arose whether she could be granted leave of absence for the entire 224<sup>th</sup> Session of the Rajya Sabha treating her previous request as an open-ended letter. It was decided that another letter may be sought from her for grant of leave of absence for the 224<sup>th</sup> Session of the Rajya Sabha. However, she was granted bail by the Delhi High Court and she attended the sitting of the Rajya Sabha on 8 December 2011.<sup>27</sup>

- vi. to attend to private affairs or personal work;<sup>28</sup>
- vii. pre-occupation with some problems;<sup>29</sup>
- viii. heavy engagements in public affairs, such as attending meetings of local council, conference, committee, etc.;<sup>30</sup>
- ix. important or urgent work;<sup>31</sup>
- x. domestic emergency;<sup>32</sup>
- xi. unavoidable or compelling reasons or circumstances;<sup>33</sup>
- xii. disturbed situation or famine condition in the member's place necessitating his presence there;<sup>34</sup>
- xiii. presence in connection with election petition/writ petition;<sup>35</sup>
- xiv. inability to attend;<sup>36</sup>

On an occasion, when a point was raised whether the reasons should be specified by the member in the application for seeking the leave of absence, the Chair, while ruling it out, observed that he had read out the application, as received, to the House.<sup>37</sup> When a member requested for leave of absence from his home town, without specifying any reasons, the Chairman read out the application to the House upon which leave was granted but he observed that the ground was not sufficient. The observations of the Chairman were conveyed to the member concerned.<sup>38</sup>

**xv. Participation in Games and Sports.**

A letter dated 7 March 2013, received from Shri Sachin Tendulkar stating that he would be unable to attend the sittings of the Rajya Sabha from 21 February to 7 March 2013, due to participation in the cricket test matches against Australia at that time. Since leave of absence to members of the Lok Sabha was granted on the ground of

participation in Games and Sports (as per the recommendations of the Lok Sabha Committee on Absence of Members from the Sittings of the House) leave of absence was granted to Shri Sachin Tendulkar.<sup>39</sup>

### **Disposal of leave applications**

After the receipt of an application, the Chairman, as soon as may be, reads out the application to the House. Till the shifting of the Question Hour from 11.00 a.m.-12.00 noon to 12.00 noon-01.00 p.m. in November 2014, this used to be done after Question Hour and laying of papers on the Table, if any. Ever since, any application for leave of absence is generally read out to the House after oath/affirmation, obituaries, references and laying of papers, if any. However, on one occasion which was the last day of the session, leave of absence was granted to a member at 9.05 p.m.<sup>40</sup> After communicating the application, the Chairman asks, “Is it the pleasure of the House that permission be granted to such and such member for remaining absent from all meetings of the House for such and such a period”. If no one dissents, the Chairman says, “Permission to remain absent is granted”. But if any dissenting voice is heard, the Chairman takes the sense of the House and thereupon declares its determination. No discussion is permitted on any question before the House in this regard. After a decision has been signified by the House, a communication is sent to the member informing him of the grant or refusal, as the case may be, of leave of absence.<sup>41</sup>

It will thus be seen that the rule requires the Chairman to read out the leave application to the House. This enables the House to know the facts of the case before indicating its pleasure in the matter. The Rules Committee considered but did not agree to a suggestion that instead of the Chairman reading out the application, he should put the question before the House and ascertain its pleasure to grant the request.<sup>42</sup> In the matter of grant of leave to a member there is no motion before the House and there is no question in the sense understood in respect of motions and resolutions. The Chairman, therefore, ascertains the pleasure of the House on a leave application without putting any formal question before the House.<sup>43</sup>

However, on an occasion when the Chairman informed the House that he had received a letter from a member for grant of leave of absence because he had “to look over the organisational work as well as fund collection to make the Sarvodaya Sammelan a success which is going to be held at Raipur in this month where all the top leaders are expected to participate”, a member raised a point of order whether it was a proper reason for being absent from the session of the House. The Chairman stated that he was just informing the House about the receipt of the letter and would be guided by the vote of the House.

The Chairman thereafter proposed a question: “that leave be granted to Shri L.N. Das for remaining absent from all meetings of the House during the current session”. The motion was adopted.<sup>44</sup>

The current practice in regard to reading out the leave application to the House is that the Chairman informs the House of the substance of the ground for asking leave rather than reading out the whole of the leave application.<sup>45</sup> By this, unnecessary details are omitted or long leave applications are abridged and the matter is restricted to only material and relevant details contained in the leave application.

On 28 November 2002, when the leave application of Ms. Lata Mangeshkar was placed before the House for grant of leave of absence for the 197<sup>th</sup> Session of the Rajya Sabha, the Deputy Chairman observed, “We have to either give the permission or not to give the permission. It has to be done....Now, I really do not know, Should I have a voting? The main thing is, if one is a member of this House, he should come, at least, occasionally. It is not correct to be a member of this august body and just neglect the responsibility of coming to the House. I can understand that one may be ill for some time but one cannot be ill for a couple of years. Thereafter, one member requested the Chair that though permission may be granted, but the feeling of the House that the member should come may also be conveyed. The Deputy Chairman then observed, “Permission to remain absent is granted. But, it will also be conveyed to the member that she should come to the House, at least, occasionally”.<sup>46</sup> The member was communicated accordingly.<sup>47</sup>

So far as ascertaining the pleasure of the House is concerned, in the context of granting leave to a member, the Deputy Chairman observed on 31 July 1995, “I think we have to change the word ‘pleasure’. The Secretary-General may take note that for such a permission, we need not use the word ‘pleasure’... ”<sup>48</sup> Accordingly, the current practice is that the Presiding Officer asks the House, “does he/she have the permission of the House for remaining absent”, etc.<sup>49</sup>

### **Non-granting of leave of absence**

There has been only a solitary case so far when leave of absence was not granted to a member of the Rajya Sabha. At the sitting of the Rajya Sabha on 22 March 1976, the Chairman informed the House that the following letter dated 1 March 1976 had been received from Shri Subramanian Swamy, M.P.

I have been informed that the next session of the Rajya Sabha is commencing on 8 March 1976. As I am still on my tour abroad, and will not be able to return during the expected length of the session,

I request you to grant me leave of absence from this imminent session of the House.

Thereafter, the Chairman asked for the pleasure of the House for grant of permission to the member for remaining absent from all meetings of the House during the 95<sup>th</sup> Session of the Rajya Sabha. While some members said, “No”; some others said, “Yes”. With a view to deciding the case, as per the procedure, he took the sense of the House. On finding that some members were in favour of and some other members were against granting the leave, he declared: “The sense of the House is that leave should not be granted. Permission to remain absent is not granted.” This, as the Chairman observed in reply to a query, “had happened for the first time in the Rajya Sabha.”<sup>50</sup>

#### **Vacation of seat on account of absence**

The seat of a member who has remained absent for sixty days or more from the sittings of the House and who has not been granted leave of absence by the House, shall be declared vacant on a motion by the Leader of the House or by such other member to whom he may delegate his functions in this behalf. If the motion is carried, the Secretary-General shall cause the information to be published in the Gazette and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.<sup>51</sup>

So far there has been only one case of vacation of seat on account of absence in the Rajya Sabha. In the case of the member in respect of whom the Rajya Sabha adopted the motion on 21 December 2000, declaring his seat vacant, the attention of the member was drawn to the provision of clause (4) of article 101 of the Constitution when his absence from the meetings of the House came to 42 days and again when the absence came to 51 days and finally when his total absence up to 190<sup>th</sup> Session of the Rajya Sabha amounted to 58 days. After his total absence crossed 60 days and when there was no response from the member, a note was sent to the Leader of the House for his information. Thereafter, the Minister of Parliamentary Affairs and Information Technology gave a notice of his intention to move the motion. Accordingly, an item in this regard was listed in the revised list of business for 21 December 2000.

On 21 December 2000, Shri Pramod Mahajan, Minister of Parliamentary Affairs and Information Technology moved the following motion in the Rajya Sabha:

“That in pursuance of clause (4) of article 101 of the Constitution of India, the seat of Shri Barjinder Singh Hamdard, member of Rajya Sabha who has been absent from all meetings of the House for a period of more than sixty days is hereby declared vacant.”<sup>52</sup>

Consequent upon the adoption of the above motion, the fact that the seat of the member was declared vacant in terms of article 101(4) of the Constitution was notified in the Gazette of India.

A member does not automatically vacate his seat in the House by absence for any length of time. But if he remains absent for a continuous period of sixty days (excluding periods of prorogation or adjournment over four days consecutively), the House may declare his seat vacant by a motion. It is not obligatory upon the House to pass such a motion. While the circumstances mentioned in clause (3) of article 101 automatically cause a vacancy, the absence under article 101(4) causes a vacancy only if the House considers it fit to unseat the member and declare the seat vacant.<sup>53</sup>

A member was granted leave of absence by the House on 5 May 1987, for remaining absent during the 142<sup>nd</sup> Session of the Rajya Sabha. When his total absence up to the 144<sup>th</sup> Session amounted to fifty-four days, a letter was sent to him drawing his attention to the constitutional provision contained in article 101(4) and he was advised to apply for leave of absence. There was no response from him. His total absence upto the next session came to eighty days. No communication was received from him. A note was, therefore, sent to the Leader of the House for his information and such action as he deemed necessary in the matter. A communication was also sent to the Leader of the Party (CPM) to which that member belonged. The Leader of the House informally suggested that the member concerned be asked to explain as to why proceedings under article 101(4) of the Constitution be not initiated for his prolonged absence without permission of the House and while doing so he be requested to state the reasons for not attending the session since July 1986 and also the circumstances under which he could not apply for leave of absence. The Leader of the Party also informally stated that he had no objection to initiate action. However, nothing was heard from the member.<sup>54</sup> Information was received that the member was murdered on 13 January 1989.<sup>55</sup>

### **Absence of Deputy Chairman, Leader of the House and Ministers**

Whenever the Deputy Chairman is unable to attend the sittings of the House during a session he intimates the Chairman accordingly. This enables making necessary arrangements to preside over the sitting of the House by a member of the panel of Vice-Chairmen in the absence of the Chairman and the Deputy Chairman.

On an occasion, the Leader of the House was granted leave of absence on health ground. Upon a member saying, "He does not need our leave", the Deputy Chairman observed, "He has written a letter."<sup>56</sup>

Ministers do not apply for permission of the House for their absence from the sittings thereof due to their duties outside Delhi or any other reason. However, as a matter of courtesy to the House, whenever Ministers have to remain absent for long periods during the session or go on a visit abroad, they inform the Chairman accordingly.

Ministers also inform the Chairman of their absence from the sittings even for a short period and intimate the arrangements made by them regarding the handling of parliamentary business standing in their names during their absence.

#### **Leave of absence to a member appointed as Chief Minister**

A member who had been appointed as Chief Minister but had not resigned his seat in the Rajya Sabha applied for leave of absence without specifically mentioning any reasons in the application. Although, there was no bar to entertain the application, there was no precedent in the matter and the application was kept pending.<sup>57</sup>

#### **Leave of absence to a member who has not made and subscribed oath/affirmation**

A member who has not made and subscribed the oath or affirmation can ask for leave of absence in order to avoid penalty envisaged in the Constitution.

Dr. Zakir Husain, whose term of office as a nominated member commenced on 3 April 1952, was granted leave of absence on 14 July 1952; he took oath on 11 August 1952, during the first session of the Rajya Sabha which had commenced on 13 May 1952.<sup>58</sup>

The term of office of Shri Lal K. Advani and Shri Sunder Singh Bhandari commenced on 3 April 1976. They took oath on 28 February 1977. In between the period they were granted leave of absence.<sup>59</sup> After leave of absence was granted to Shri Bhandari on 18 May 1976, a member suggested that if there was no difficulty, either the Deputy Chairman or a Vice-Chairman could visit the jail and administer oath to a member in detention. The Chairman observed: "There appears to be a precedent in such a case where we have given leave to remain absent. But what you have suggested will be looked into."<sup>60</sup>

Shri R.K. Karanjia who was nominated to the Rajya Sabha on 11 January 1991, was granted leave of absence on 22 February 1991 during the 157<sup>th</sup> Session of the Rajya Sabha; he made affirmation on 11 July 1991. When a point was raised about Shri Karanjia asking for leave of absence without making oath or subscribing affirmation, the Deputy Chairman ruled that the member was entitled to ask for leave of absence even though he had not taken oath.<sup>61</sup>

Similarly, Ms. Lata Mangeshkar who was nominated to the Rajya Sabha on 22 November 1999, was granted leave of absence on 6 December 1999 during the 188<sup>th</sup> Session of the Rajya Sabha; she took oath on 23 February 2000.

#### **Leave of absence to a member whose resignation is under consideration**

Some members had not been attending the House as their resignations from the membership of the House were pending consideration of the Chairman. It was felt that in view of their resignations which were under the consideration of the Chairman, it was not necessary to write to members inviting their attention to their absence which had come to about forty days or more.<sup>62</sup>

#### **Revocation of granted leave of absence**

A member was granted leave of absence from all the meetings of the House during a session. He, however, attended the sittings during the currency of the session and in a letter requested that the leave of absence granted to him be revoked. There was no provision or precedent for such revocation and the view held was that there was no restriction on a member to attend the session during the days for which he was granted leave of absence. The question of revoking the leave did not arise.<sup>63</sup> However, if a member who has been granted leave of absence attends the sessions of the House during the period for which the leave of absence has been granted to him, the unexpired portion of the leave from the date of his resumed attendance stands lapsed.

#### **Payment of daily allowance during leave of absence**

A member who is granted leave of absence by the House under article 101(4) of the Constitution is not entitled to daily allowance for the period of such leave of absence even if during this period he resides at the place of the session of Parliament. This also flows from the requirement of the proviso to section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 as for claiming daily allowance a member has to sign the Attendance Register.<sup>64</sup>

#### **Supply of information regarding attendance of members**

Information regarding attendance of a member on particular days is supplied to the member on his request. While making such a request the member has to specify the purpose for which the information is required. When such a request is granted, information is supplied from the Attendance Register only about the days on which the member has actually signed the Register.

### **Supply of information from Attendance Register to Court of law**

All records relating to the attendance of members are in the custody of the Secretary-General and the same may be supplied to a court of law only with the permission of the House, if it is in session or of the Chairman, if the House is not in session.<sup>65</sup>

A request was received from the sessions judge, Cuddalore, for certified extracts from the Attendance Register from 1 March 1963 to 15 March 1963 in the Rajya Sabha, showing the presence and attendance of Shri R. Gopalakrishnan, member of the Rajya Sabha. As the House was not in session when the said request was received, the Chairman granted permission to send the relevant extracts from the Attendance Register, duly certified, to the sessions judge. The extracts were sent on 30 January 1964 and the Deputy Chairman informed the House accordingly.<sup>66</sup>

#### **NOTES AND REFERENCES**

1. Art. 101(4).
2. *Ibid.*, *Proviso*.
3. Kaul and Shakdher, *Practice and Procedure of Parliament*, 6<sup>th</sup> Edn., 2009, p. 405.
4. See for instance Bn. (II), 18.11.1991.
5. Bn. (II), 10.8.1993.
6. F. No. 5/2/93-L.O.
7. R. 214(1).
8. F. Nos. 1/4/84-L.O. and 1/4/89-L.O.
9. C.S. Deb., 26.8.1953, c. 296; 8.3.1954, c. 1996-97; R.S. Deb., 4.9.1961, c. 2912-13; 15.12.1972, c. 113; 31.7.1975, c. 4-5; 6.12.1978, c. 146; 22.12.1992, c. 296; and 14.2.1995, c. 263.
10. *Ibid.*, 15.5.1953, c. 5993; 8.3.1954, c. 1996; R.S. Deb., 2.8.1994, c. 393; 17.8.1994, c. 272-73; and 14.2.1995, c. 263.
11. F. No. 1/4/91-L.O.
12. R.S. Deb., 1.12.1983, c. 225-27. In this case, however, the Chairman had also received a telegram from the ailing member.
13. F. No. 1/4/91-L.O.
14. R.S. Deb., 5.8.2010, c. 234-35.
15. 3 Rpt., COR mts., 5.8.1981.
16. C.S. Deb., 27.5.1952, c. 460-61; and 15.5.1953, c. 5993.
17. *Ibid.*, 19.12.1952, c. 2450-51.
18. *Ibid.*, 2.3.1953, c. 1426; R.S. Deb., 10.8.1966, c. 2137-38; 12.7.1979, c. 155; 18.8.1972, c. 142; and 21.8.1972, c. 126.
19. *Ibid.*, 11.8.1952, c. 3731-32; 4.12.1952, c. 905-06; 19.12.1952, c. 2450-51; 2.3.1953., c. 1426; 16.4.1953, c. 3064; R.S. Deb., 19.3.1955, c. 2437; 5.4.1955, c. 3998; 3.9.1958, c. 1918-19; 28.3.1961, c. 123; 2.9.1965, c. 2481-82; and 17.8.1966, c. 2876.
20. *Ibid.*, 25.11.1953, c. 321-22; R.S. Deb., 14.9.1957, c. 5663-64; and 23.4.1958, c. 178-79.
21. F. No. 1(4)/1992-L.O.
22. F. Nos. 1/4/89-L.O. and 1/4/92-L.O.
23. F. No. 1/4/84-L.O.

24. F. No. 1/4/89-L.O.
25. R.S. Deb., 11.12.1962, c. 3734; and 26.3.1965, c. 4685-86.
26. *Ibid.*, 16.9.1991, c. 10.
27. F. No. 1(4)/2010-L.O.
28. C.S. Deb., 16.4.1953, c. 3063-64; and R.S. Deb. 14.12.1961, c. 2390-91.
29. *Ibid.*, 24.11.1953, c. 177.
30. R.S. Deb., 3.9.1954, c. 1241; 29.5.1957, c. 1018; 31.5.1957, c. 2546; and 15.6.1967, c. 4072-73.
31. *Ibid.*, 23.12.1954, c. 3196; 15.3.1955, c. 1954-55; 21.12.1956, c. 3351; 20.8.1956, c. 1652; and 23.11.1972, c. 210.
32. *Ibid.*, 7.6.1967, c. 2660-61.
33. *Ibid.*, 14.9.1957, c. 5663-64; 9.1.1976, c. 86-87; 15.1.1976, c. 257-58; and 12.3.1976, c. 128.
34. *Ibid.*, 17.9.1958, c. 3629; 21.8.1972, c. 126; and 18.8.1980, c. 230.
35. *Ibid.*, 7.12.1960, c. 1136-37; 18.12.1964, c. 4367; 24.2.1965, c. 938; 13.5.1965, c. 1887; and 19.12.1973, c. 219.
36. *Ibid.*, 31.3.1965, c. 5185; and 21.3.1967, c. 316-17.
37. *Ibid.*, 26.5.1971, c. 137-41.
38. *Ibid.*, 5.5.1987, c. 182-83; and F. No. 1/4/87-L.O.
39. F. No. 2(2)/2013-L.O.
40. R.S. Deb., 27.8.1993, c. 624.
41. R. 214.
42. 3 Rpt., COR mts., 5.8.1981.
43. Rpt., COR Memorandum No. 32 of 1980.
44. R.S. Deb., 17.12.1963, c. 3749-50.
45. F. No. 1/4/84-L.O. For past instance see R.S. Deb., 21.11.1969, c. 902; 28.4.1970, c. 142-43; 7.1.1976, c. 133-34; 22.1.1976, c. 131-32; 9.3.1976, c. 126; 24.3.1976, c. 125; 25.3.1976, c. 116-17; 30.11.1977, c. 138; 19.7.1978, c. 213-14; 25.4.1979, c. 113; 18.8.1980, c. 230; and 25.7.1984, c. 204.
46. R.S. Deb., 28.11.2002, c. 203-04.
47. F. No. 1(4)/2001-L.O.
48. R.S. Deb., 31.7.1995, c. 189-90
49. F. No. 1/4/95-L.O.; R.S. Deb., 4.8.1995; and 26.8.1995.
50. R.S. Deb., 22.3.1976, c. 78-80.
51. R. 215.
52. Bn. (I), 21.12.2000.
53. D.D. Basu, *Commentary on the Constitution of India*, 5<sup>th</sup> Edn., Vol. 2, p. 564.
54. F. No. 10/88-T.
55. R.S. Deb., 21.2.1989, c. 35 containing obituary reference in respect of Shri T.S. Gurung.
56. C.S. Deb., 24.11.1952, c. 36-37.
57. F. No. 1/4/83-L.O.
58. C.S. Deb., 14.7.1952, c. 993.
59. R.S. Deb., 18.5.1976, c. 81-82; 24.8.1976, c. 104; and 12.11.1976, c. 2.
60. *Ibid.*, 18.5.1976, c. 81-82.
61. *Ibid.*, 22.2.1991, c. 166-67.
62. F. No. 1/4/83-L.O.
63. F. No. 1/4/82-L.O.
64. F. No. 1/4/90-L.O. and 1/12/93 L.O.
65. 1 Rpt., COP.
66. R.S. Deb., 11.2.1964, c. 101.

## CHAPTER–15

### **Arrangement of Business**

**I**t is customary to divide parliamentary business into two broad categories, viz., Government business and private members' business. The Provisional Calendar of Sittings which is issued at the commencement of a session, indicates in general terms the days on which each type of business will be taken up during the session. The present chapter indicates the various items of business which normally come up in the House. The detailed procedure in respect of each of them may be found under the relevant chapter.

#### **Government business**

Strictly speaking, private members' Bills and resolutions which are discussed for two and a half hours on every Friday or such other day as the Chairman may allot, only fall under the category of private members' business. All other items which come up in the House daily or periodically though initiated by private members, are transacted during the time allotted for Government business. Such items are: questions and short notice questions, calling attention, motion of thanks on the President's Address, short duration discussion, statutory motions for amending rules, regulations, bye-laws, etc. framed in pursuance of the Constitution or an Act of Parliament, motions on matters of public importance, half-an-hour discussion, statutory resolutions, zero-hour submissions, special mention matters and privilege matters. In addition, there are items of business such as oath or affirmation by members, obituary and other references and announcements by the Chairman which are also taken up in Government time.

During the 93<sup>rd</sup> (1975) and 98<sup>th</sup> (1976) sessions, Government motions were adopted to the effect that only Government business be transacted during those sessions and no other business whatsoever be brought before or transacted in the House during the sessions.<sup>1</sup>

Except in respect of items regarding zero-hour submissions, special mention matters, privilege matters, references and announcements from the Chair, introduction of Ministers and entries about other items are included in the list of business. In the case of questions and short notice questions, and papers to be laid on the Table separate lists are printed and as such only a reference to the lists is made in the main list of business.

In the case of oath or affirmation by large number of members a general entry indicating that members who have not already taken oath or made affirmation to do so, appears in the list of business. In the case of a single member, if advance intimation is received, his name also appears in the list of business under the heading of oath/affirmation.

Announcements are made by the Chairman from time to time in regard to certain matters such as resignation by a member, communication received about the arrest, detention, conviction or release of a member, grant of leave of absence to a member, constitution of the panel of Vice-Chairmen to preside over the House, messages from the President, welcome to foreign parliamentary delegations who will be watching the proceedings of the House from the Special Box, and so on. No entry is made in the list of business in respect of such announcements. All these matters are disposed of early in the day before the main business commences.

Items of business initiated by Government or during Government time may be categorised into a number of heads. These are briefly described below:

### **Papers laid on the Table**

Ministers lay various reports, papers and documents on the Table under the relevant provisions of the Constitution or an Act of Parliament or any other law, rule or regulation or convention or practice of the House or Rules of Procedure of the House. The purpose of laying such papers on the Table is to supply authentic and authoritative information or facts to the House.

The Constitution requires the laying of the following papers on the Table, namely, Annual Financial Statement and Supplementary Demands for Grants,<sup>2</sup> Ordinances promulgated and Proclamations issued by the President and orders incidental thereto,<sup>3</sup> reports of the - (i) Comptroller and Auditor-General,<sup>4</sup> (ii) Finance Commission together with a memorandum explaining the action taken thereon,<sup>5</sup> (iii) Special Officer (Commissioner) for Scheduled Castes and Scheduled Tribes,<sup>6</sup> (iv) Backward Classes Commission together with a memorandum explaining the action taken thereon,<sup>7</sup> (v) Special Officer for the Linguistic Minorities (Commissioner for Linguistic Minorities)<sup>8</sup> and (vi) Union Public Service Commission together with a memorandum about the cases, if any, where the advice of the Commission was not accepted by the Government and the reasons for such non-acceptance.<sup>9</sup> The regulations framed by the President regarding the UPSC's functions are also required to be laid on the Table.<sup>10</sup> While the reports of the Finance Commission and the Backward Classes Commission are laid periodically as and when submitted to the President, the reports of other authorities are laid on the Table annually.

Various statutes which confer rule-making power on the Central Government or any other subordinate authority contain a provision for laying rules, regulations, bye-laws, schemes, etc. framed thereunder, on the Table within a period of thirty days which may be comprised in one session or two or more successive sessions. Besides these, reports/accounts of various Public/Government Undertakings, and Reports of Commissions of Inquiry, constituted under specific statutes are also required to be laid on the Table.

The Rules of Procedure require the following papers to be presented/laid on the Table viz., reports of the Select/Joint Committees on Bills,<sup>11</sup> and of Standing Committees,<sup>12</sup> petitions,<sup>13</sup> and statements regarding Ordinances.<sup>14</sup> While the reports of the committees are presented/laid by the Chairmen or the authorised members of respective committees, the petitions are presented by the members who countersign such petitions, or by the Secretary-General. Statements regarding Ordinances are laid by Ministers concerned along with the introduction of Bills replacing such Ordinances.

The Rules of Procedure also require the Secretary-General to lay certain papers on the Table of the House. These are: Bills passed by the Rajya Sabha and returned by the Lok Sabha with amendments,<sup>15</sup> and Bills including Money Bills passed by the Lok Sabha and transmitted to the Rajya Sabha.<sup>16</sup> The Secretary-General also lays on the Table a copy of the President's Address to both Houses of Parliament assembled together under article 87 of the Constitution. At the commencement of a session, the Secretary-General lays a statement of Bills passed by both the Houses of Parliament and assented to by the President during the preceding session for information of the House.

However, in view of the importance of the Bills, the Secretary-General laid on the Table during the 147<sup>th</sup> and 157<sup>th</sup> Sessions, respectively a copy of the Constitution (Sixty-first Amendment) Bill, 1988, assented to by the President on 28 March 1989<sup>17</sup> and a copy of the Constitution (Sixty-eighth Amendment) Bill, 1991, assented to by the President on 12 March 1991.<sup>18</sup>

The Secretary-General laid on the Table a copy of the National Jute Board Bill, 2008 passed by Parliament during 214<sup>th</sup> Session and assented to by the President.<sup>19</sup>

No statement was laid on the Table on the first day of the 216<sup>th</sup> Session as no Bill was assented to by the President.<sup>20</sup>

As per established practice, the papers/reports etc. are laid on the Table at 12 Noon after the Question Hour is over. Due to re-scheduling of the Question Hour by the Chairman on 4 March 2011 during the

222<sup>nd</sup> Session the time for asking and answering of questions was fixed from 2.00 p.m. to 3.00 p.m. from Monday to Thursday and 2.30 p.m. to 3.30 p.m. on Fridays<sup>21</sup>, the papers/reports etc. were laid on the Table at 3.00 p.m. (at 3.30 p.m. on Fridays) during the remaining part of the 222<sup>nd</sup> Session. However, the Question Hour was restored<sup>22</sup> to its usual timing at 11.00 a.m. during the 223<sup>rd</sup> Session w.e.f. 1 August 2011 and the papers/reports are again laid on the Table at 12.00 Noon, after the Question Hour is over. Later, the Question Hour was again rescheduled from 11.00 a.m.-12.00 noon to 12 noon-1.00 p.m. from 233<sup>rd</sup> Session onwards w.e.f. 24 November 2014.<sup>23</sup> Accordingly, the papers/reports are laid on the Table at 11.00 a.m.

However, papers can be laid on the Table by the Government at any time.

On an occasion, the Deputy Minister in the Ministry of Finance laid a copy of the notification regarding enhancement of excise duty on *Khandsari* sugar towards the end of the sitting on 30 April 1974. A member objected to the laying of papers at any time by the Deputy Minister. The Vice-Chairman said:

From the Government side the Minister can place a statement at any time.<sup>24</sup>

On 2 August 1985, the Minister of State in the Ministry of Finance laid a paper regarding reduction of export duty on coffee on the Table of the House at 5.00 p.m. Since it was not listed on the revised list of business for the day, a member suggested that in such a situation the existing formality of informing the House should be observed. Thereupon, the Vice-Chairman said:

I would request the Minister of Parliamentary Affairs to take note of the suggestion of the member and see that where papers are not listed on the revised list of business, when they come in the middle of the day's proceedings, they may kindly be informed to the members so that they can ask for clarifications as is the practice here. I would request the Government to take note of this.<sup>25</sup>

Some guidelines have been issued to the Ministries to comply with, and to facilitate the laying of the papers. The Ministries are required to send the papers for laying at least three clear working days in advance of the laying date. To ensure this, a circular is issued to all Ministries before the start of each session, requesting them to send papers within the time schedule. In case of delay in the receipt of the papers, the papers are listed for the next question day allotted to the Ministry.

### **Statements to correct inaccuracies**

When a Minister finds that an incorrect information has been given to the House by him in answer to a starred/unstarred/short notice question

or a supplementary question or during a debate, he may make a statement or lay it on the Table correcting his earlier answer or information. An advance notice of the proposed statement together with a copy thereof is required to be given to the Secretary-General, for inclusion of the item in the list of business. Correcting statements arising out of questions are generally made or laid immediately at the end of Question Hour. In case of a statement arising out of a debate, it may be made or laid at such time as the Chairman may permit.

For instance, a statement was made by the Minister of State in the Department of Defence Production and Supplies in the Ministry of Defence, correcting the reply given by him in the Rajya Sabha on 12 August 1987, on the motion on the Report of JPC on Bofors to "set at rest all doubts".<sup>26</sup>

### **Statements in response to Calling Attention**

The practice has been that the Calling Attention matter used to be raised after the questions and the laying of papers, if any, on the Table and before any other item in the list of business is taken up, and the Minister makes a brief statement in response thereto.<sup>27</sup> The time at which the Calling Attention matter would be taken up, has now been changed based on the recommendations of the Thirteenth Report of Committee on Rules adopted by the House on 26 November 2014 with the amendment that the Calling Attention would be taken up at 2.00 p.m.<sup>28</sup>

### **Statements by Ministers on matters of public importance**

A statement may be made by a Minister on a matter of public importance with the consent of the Chairman.<sup>29</sup> Ordinarily, an advance intimation is required to be sent along with a copy of the proposed statement to the Secretariat about the date on which the statement is proposed to be made by the Minister, so that the item may be included in the list of business. When in urgent cases a Minister requests to make a statement the same day, a supplementary list of business is issued indicating the time for such a statement, if time permits, otherwise, an announcement is made by the Chair and/or a notice is displayed on CCTV for information of members.

As a rule no question shall be asked at the time the statement is made.<sup>30</sup> However, over the years a practice or convention has developed that members are permitted to seek clarifications on the statement. The demands from the members to seek clarifications have been so common that the Chair, at times, has underscored the need for regulation of this procedure.

On 4 October 1982, the Minister of Irrigation made a statement regarding flood situation in the country. Some party whips sought

clarifications. Some other members also wanted to seek clarifications. The Vice-Chairman ruled:

No clarification can be asked. And, therefore, this is the indulgence by the Chair that some clarifications are being allowed, but surely there must be some regulation...this has been the tradition in this House that whenever statement of some urgent public importance is made, the Chair does allow a few questions in the form of clarification to be replied by the Minister. But surely on the basis of that I cannot be pressurised that every member, and especially those who have spoken, can go on asking clarifications. The business of the House has also got to be regulated.<sup>31</sup>

The convention of seeking clarifications on the statement has now evolved in the Rajya Sabha over a considerable period of time. Generally, it is done immediately after a statement is made. However, there are a number of instances when the statement had been made on a day and clarifications were sought later on. The House may decide to forgo clarifications if any other opportunity is available for discussion of the subject matter of the statement.

For instance, the Business Advisory Committee recommended that no clarification might be sought on the statement regarding the purchase of HSD from M/s Kuo Oil to be made on 28 July 1982, in view of the short duration discussion on the subject scheduled on 29 July 1982.<sup>32</sup>

The Chair did not allow members to seek clarifications on the statement by Prime Minister regarding the newspaper report on payment of cash for votes on 18 March 2011. Later, based on notices received from members, the matter of the statement was admitted and discussed as 'Short Duration Discussion' on 23 March 2011.<sup>33</sup>

The statement by the Prime Minister regarding situation arising out of the agitation launched by Shri Anna Hazare on 17 August 2011 was converted into a general discussion with 21 members participating therein.<sup>34</sup>

Similarly, the statement made by the Minister of Finance on the issues relating to setting up of a Lokpal on 27 August 2011 was also converted into a full fledged discussion lasting for more than 7 hours with 26 members participating therein.<sup>35</sup>

Previously, a ministerial statement was ordinarily made during the early hours of the House. In view of the practice of seeking clarifications, the Business Advisory Committee recommended that a Minister who had to make a statement might do so with the consent of the Chairman ordinarily at 5.00 p.m. or thereafter, unless the Chairman permitted the statement to be made at some other time.<sup>36</sup> Currently, therefore, the statement is generally listed in the list of business to be made towards the latter half

of the sitting of the House, either at 5.00 p.m. or before the House rises for the day after completion of the listed business.

As regards the procedure for seeking clarifications on a statement of the Minister, it has been laid down that:

- (i) only one member from a party/group having a strength of four or more members may be called to seek clarifications on a statement; and so far as the Cong. (I) party is concerned, two or three members from that party may be called to seek clarifications;
- (ii) members belonging to a group whose strength is less than four may be grouped together and given a chance to seek clarifications by rotation, not more than three, on a statement; and
- (iii) no member should take more than three minutes to seek clarifications.<sup>37</sup>

However, no clarification can be sought after the Minister has replied. A *suo motu* statement is not laid and is read out.

### **Personal explanation**

A member may, with the permission of the Chairman, make a personal explanation although there is no question before the House, but in this case no debatable matter should be brought forward and no debate should ensue.<sup>38</sup> Members against whom comments or criticisms of a personal nature are made on the floor of the House are entitled to make, with the consent of the Chairman, personal explanations in their defence. A personal explanation is a device open to a member to explain his conduct or position in reply to an accusation made against him by another member or to correct an alleged misrepresentation against him. Personal explanation is made before the main business of the day is taken up, unless the member in question is permitted by the Chairman to make it during the course of a debate when the allegations against him are made.

For instance, on 31 July 1991, Dr. Y. Sivaji sought the permission of the Deputy Chairman to make a personal explanation. Reminding the member of the rules and procedure of the House, the Deputy Chairman made the following observation:

You should first seek Chairman's permission for giving a personal explanation. You write to the Chairman. Then I will allow you if the Chairman permits. Nobody is going to reply to your questions in this way.<sup>39</sup>

If a member during the course of a debate makes any allegation in the House against another member or Minister without following rule and the same has gone on record, the Minister or the member against whom

the allegation has been made, is allowed on his request to make a personal explanation in the House with a view to clarifying his position on the same day or later on. In case he does not make the personal explanation immediately or is not present at that time in the House, he is permitted to make a statement later on, on a written request to the Chairman enclosing a copy of the statement to be made by the member. This is intended to enable the Chairman to ascertain that the member wishing to make a personal explanation does not introduce any debatable matter. If the permission is granted, the member makes the statement in the House and no further questions are allowed on it; the intention being that the personal explanation should not be converted into a debate. When a personal explanation is made by a member, ordinarily it is the practice not to allow another member to make counter-explanation. The matter is treated as closed with the statements of both the sides being on record.

If an advance intimation is received from a member or a Minister of his desire to make a personal explanation and the Chairman accords his consent for the purpose, an item regarding the matter is included in the list of business.

For instance, an item was included in the list of business for 17 November 1980, regarding the personal explanation to be made by Shri C.P.N. Singh, Minister of Science and Technology in respect of certain remarks concerning him made in the House on 18 August 1980, by two members (made at the end of the day). Also, an item was included in the revised list of business for 30 August 1990, regarding the personal explanation to be made by Shrimati Maneka Gandhi, Minister of State in the Ministry of Environment and Forests in respect of certain remarks concerning her made in the House on 28 August 1990 (made after Question Hour).

An item was included in the supplementary list of business for 1 August 2000, pertaining to the personal explanation to be made by Shri Ram Jethmalani in respect of certain remarks concerning him made in the House on 28 July 2000 (made after laying of papers/reports).

Also an item was included in the supplementary list of business for 14 August 2006, pertaining to personal explanation to be made by Shri K. Natwar Singh.

On an occasion, Shri M.Venkaiah Naidu was permitted to make his personal explanation on 9 May 2003 without an entry in the list of business. On another occasion, Shri Mukul Roy was permitted to make his personal explanation on his resignation from the Union Council of Ministers, without an entry in the list of business. However, he did not make the personal explanation.

The Ministers who are not members of the Rajya Sabha have also been permitted to make personal explanation in the House.

On 30 August 1990, the Deputy Chairman called the Minister of State in the Ministry of Environment and Forests, Shrimati Maneka Gandhi, to make her personal explanation regarding a dispute between her and the Minister of Environment and Forests, Shri Nilamani Routray. On this issue, Shri Kamal Morarka and other members raised a point of order that Shrimati Maneka Gandhi was not a member of Rajya Sabha, and as such she could not make a personal explanation. The Deputy Chairman observed as follows:

...if Mrs. Maneka Gandhi was only a member of that House, then the Chair would not have allowed any allegation on her. It was allowed because she comes to this House as a Minister and she is answerable to the questions of the members in both the Houses. And if it was not so I would not have permitted you to say anything about any member belonging to the other House.

Secondly, the Chairman in his right has permitted Mrs. Maneka Gandhi to make a personal explanation. That is why she is here.<sup>40</sup>

There were also occasions when Minister(s), who were members of the other House (Shri Manikrao Gavit, Minister of State in the Ministry of Home Affairs and Shri P. Chidambaram, Minister of Finance), were permitted to make their personal explanation on 14 August 2006 and 29 August 2005, respectively, without an entry in the list of business.

### **Motions for election to Committees**

Another formal item of business is the motion for the purpose of electing members of the House to serve on a Committee, Authority or Body, which is constituted under an Act of Parliament and rules framed thereunder, or in accordance with the terms of any Government resolution. A date on which such a motion is moved by the Minister concerned is indicated by the Ministry of Parliamentary Affairs and the item is included in the list of business for that day after the item of papers to be laid on the Table and before the main business.

### **Motions for introduction or withdrawal of Bills**

A motion for leave to introduce or withdraw a Bill being in the nature of a formal item of business is disposed of before the main business for the day is taken up. The item regarding the requisite statement of the Minister explaining the circumstances which had necessitated immediate legislation by Ordinance is included in the list of business before the entry regarding motion for leave to introduce the Bill to replace that Ordinance.<sup>41</sup> It is permissible to include in the list of business a motion or motions for

leave to introduce a Bill or Bills notwithstanding the fact that the day is allotted for the discussion for Motion of Thanks on the President's Address<sup>42</sup> or for the transaction of financial business.<sup>43</sup>

### **Legislative business**

Bills may be introduced and piloted in the House by Ministers as well as by private members. But only those Bills of which notice has been given by Ministers are introduced and considered during the Government time. Private Members' Bills are introduced and disposed of only during the time allotted for private members' Bills.

### **Motions**

A motion to discuss a matter of public importance may be moved with the consent of the Chairman. A motion for which notice is given by a Minister is termed as a Government motion and it is distinguished from a motion, the notice of which is given by a private member. In the case of notices of motion given by private members, the Chairman after considering the state of business in the House and in consultation with the Leader of the House may allot a day or days or part of the day for the discussion of any such motion. The discussion on a motion takes place during the Government time irrespective of the fact whether it is a Government motion or otherwise. As per the practice, the Business Advisory Committee allots time for discussion of admitted motions, the notices of which are given by private members. No definite time for the purpose has been fixed but sometimes the Business Advisory Committee itself may, while allotting time even indicate a day therefor.

For instance, the Business Advisory Committee recommended that discussion on the motion regarding appointment of Commission of Inquiry against the family members of the Prime Minister be taken up on 10 August 1978. It was accordingly taken up on that day.<sup>44</sup>

The Business Advisory Committee recommended four hours for discussion on the motion for consideration of the Report of the Inquiry Committee constituted to investigate into the grounds on which removal of Shri Soumitra Sen, Judge, Calcutta High Court was prayed for, on 11 November 2010. The motion was taken up for discussion on 17 and 18 August 2011.<sup>45</sup>

### **Resolutions**

Resolutions are moved in the House by Ministers as well as private members; but as in the case of Bills, only the resolutions moved by Ministers are called Government resolutions and, therefore, are taken up during the Government time. However, discussion on statutory resolutions tabled by

private members is taken up during the Government time. Such resolutions are: resolutions for disapproval of an Ordinance promulgated by the President or a resolution for modification or annulment of a statutory rule or order laid on the Table in pursuance of an Act of Parliament. Other (*i.e.* non-statutory) resolutions of private members are taken up during the time allotted for private members' resolutions.

### **Discussions**

As a general rule of parliamentary practice, a motion is the form in which debate on any subject must originate. There are, however, exceptions provided in the Rules of Procedure, under which discussions may take place without a formal motion. A short duration discussion may be raised on a matter of urgent public importance without any formal motion.<sup>46</sup>

General discussion on the Budget is held but no motion is moved therefor.<sup>47</sup> In the same category falls the discussion on the working of a Ministry which takes place annually as per the long established practice. In the case of half-an-hour discussion arising out of a question also, there is no formal motion before the House.<sup>48</sup>

While in the case of a short duration discussion, the list of business contains the names of all the members whose notices on the subject are admitted, there is only a general entry in the list of business in respect of discussion on Budget and working of a Ministry. The general discussion on the Budget is initiated by a member of the largest opposition party and the one on the working of Ministries is decided by leaders of parties/groups amongst themselves. All these discussions take place during Government time. The time at which the short duration discussion is to take place is decided by the Chairman. However, on many occasions the Business Advisory Committee has also indicated the dates on which the discussion may be fixed.<sup>49</sup> As regards half-an-hour discussion, generally it takes place towards the end of a sitting *i.e.*, 5.00 p.m. or 6.00 p.m. or earlier if the proceedings are over before that time. An item for the purpose is entered in the list of business in the name(s) of member(s) whose notice(s) has (or have) been admitted.

However, there have been occasions when general discussion on the General and Railway Budgets could not take place due to one reason or the other. In the year 1999, the Government headed by Shri Atal Bihari Vajpayee lost Vote of Confidence in the Lok Sabha on 17 April 1999, and consequently Lok Sabha was dissolved before the discussion could take place on the General and Railway Budgets. In the year 2000, in the 189<sup>th</sup> Session, the General Budget (2000-01) along with Appropriation (Railways) Bill was disposed of without discussion on the last day of the

first part of the Budget Session. The Railway Budget for the year 2000-01 was discussed at length. In the year 2001, in the 192<sup>nd</sup> Session due to continued interruptions on the disclosures by Tehelka, the general discussions on the General and Railway Budgets could not take place during the Budget Session.

In the first part of the 228<sup>th</sup> Session, the discussion on the Budget (General), 2013-14 and the Appropriation Bills commenced<sup>50</sup> but could not be completed due to continued interruptions on the alleged remarks by a Union Minister against the leader of a national political party and stand of the Indian Government on the resolution on war crimes by Sri Lanka in the United Nations. As decided in the leaders' meeting, the Chairman permitted the members to lay their written speeches on the General Budget and Appropriation Bills, 2013.<sup>51</sup>

However, on 19 March 2007, during the course of the discussion on the Budget (General) 2007-08, the Minister of Finance could not complete his reply to the debate due to pandemonium in the House. The Deputy Chairman, Rajya Sabha who was presiding at that time, directed the Finance Minister to lay the remaining part of his speech on the Table of the House. The Finance Minister accordingly laid the remaining part of his speech on the Table of the House. A question consequently arose as to whether the speeches laid on the Table shall form part of the verbatim record of that day or to be shown as 'Paper laid on the Table of the House'. After examining the case and after obtaining the approval of the Chairman, the written text of the remaining part of the speech of the Finance Minister made on 19 March 2007, which was laid on the Table of the Rajya Sabha was considered to have formed the part of the debate, with the indication 'laid on the Table' made therein.<sup>52</sup> On 18 February 2014, when the Appropriation (Railways) Bills, 2014 were taken up for consideration, and the Minister could not give his reply due to pandemonium in the House, the Minister of Railways laid on the Table, a Statement on the Budget Proposals 2014-15.<sup>53</sup>

### **Financial business**

The financial business of the House, *inter alia*, consists of the laying of the Railways and General Budgets and statements of supplementary Demands for Grants on the Table after they are presented to the Lok Sabha. It also encapsulates in its scope, general discussion on the General and Railways Budgets, consideration and return of connected Appropriation Bills and Finance Bill, laying of the Budgets, etc. of States which are under President's Rule and consideration and return of connected Appropriation Bills and discussion on the working of Ministries/Departments of the Government of India, as recommended by the Business Advisory Committee. Necessary entries in respect of all these items are made in the list of business.

### Time for Government business

The normal time of sitting of the House used to be from 11.00 a.m. to 5.00 p.m. with an hour's lunch recess. However, with the adoption of the Thirteenth Report of the Committee on Rules w.e.f. 27 November 2014, the normal time of the sittings of the House was extended by an hour, i.e. from 11.00 a.m. to 01.00 p.m. and from 02.00 p.m. to 06.00 p.m. except on Fridays when the House reassembles after lunch at 02.30 p.m. The first half of every sitting is normally devoted to formal items like papers to be laid on the Table, the zero-hour submission, the asking and answering of questions, etc. Thus, the actual Government business starts only when the House re-assembles after the lunch break. On Friday, time for Government business is almost nil unless some business is slated to be transacted between 12.00 noon and lunch break or after 05.00 p.m.

The inadequacy of time available for Government business was considered by the Business Advisory Committee from time to time. For instance, in its meeting held on 8 March 1982, it recommended that the business of the House should be so arranged that four hours in a day are available for the transaction of Government business on days allotted for that business. This would mean, the Committee opined that the House would have to sit longer every day to complete the business, i.e., beyond 6.00 p.m. if necessary.<sup>54</sup> At its meeting held on 12 August 1993, the Committee expressed the view that at least four hours should be utilised daily for the transaction of Government legislative business and that all non-legislative business be completed by 2.30 p.m.; if necessary by dispensing with the lunch-hour.<sup>55</sup> This view was reiterated by the Committee at its meeting held on 19 August 1993.<sup>56</sup>

### Arrangement of Government business

On days allotted for the transaction of Government business that business has precedence.<sup>57</sup>

The Minister of Education gave notice of a motion for the consideration of the Second Report of the UGC (1957-58).<sup>58</sup> Earlier a private member's motion on the same subject was admitted and notified as a No-Day-Yet-Named Motion.<sup>59</sup> In the list of business only Government motion was included since in the programme of business announced by the Minister of Parliamentary Affairs, it was mentioned that the Government motion on the subject only would be discussed in the next week.<sup>60</sup> Accordingly, the Government motion was discussed on 26 February 1959.

A Government motion on the statement regarding Railway Accidents laid on the Table of the Rajya Sabha on 16 August 1962 was admitted and notified in the Bulletin.<sup>61</sup> Earlier, a notice was given by some

members for a motion on the situation arising out of the series of accidents that had recently taken place on the Railways, which was also admitted and notified as No-Day-Yet-Named Motion.<sup>62</sup> In the list of business only Government motion was included. A point of order was raised asking how the Government's motion was to be taken up by the House when a notice for a similar motion was given by two members which had already been admitted by the Chairman and notified in the Bulletin. The member raising the point of order contended that even though the Minister's motion might be identical, the private members who had given notice of the motion previously could not be deprived of their right to move the motion. The Vice-Chairman ruled as follows:

The rules relating to motions in Chapter X do not make any distinction between a Government motion and a private member's motion. So, all the rules apply to both the motions...I would ask the member to refer to rule 22,... regarding Government business. If it had been a private members' day, it would have been a different thing. As it is, today is Government business day. So, I hold that in such cases where there are two motions from members as well as from the Government on a Government business day, the Government's motion will have precedence.<sup>63</sup>

To the motion for consideration of the Chit Funds Bill, 1982, a member gave an amendment to refer the Bill to a Select Committee. Subsequently the concerned Minister also gave an amendment for the purpose. Only Minister's amendment was put, the Deputy Chairman observing, "Minister's motion will have precedence over the member's motion. That is the rule."<sup>64</sup>

The Secretary-General is required to arrange the business in such order as the Chairman may, after consultation with the Leader of the House, determine.<sup>65</sup>

A few days prior to the commencement of a session, Government (Ministry of Parliamentary Affairs after taking approval of the concerned Minister) supplies to the Secretariat a statement of the probable Government business (which may not be exhaustive) likely to be transacted during the entire session. This information is published in the Parliamentary Bulletin Part-II for the information of members.<sup>66</sup> About four or five days before the commencement of a session a list of business is issued for the first two days of the session indicating the business as intimated by the Ministry of Parliamentary Affairs. On the last working day before the commencement of the session the list for the first day is revised and the items of business like papers to be laid on the Table, calling attention, if any, presentation of reports, etc. apart from the Government business, as intimated by Ministry of Parliamentary Affairs, are included in the revised list of business.

After the session commences, the Ministry of Parliamentary Affairs intimates on a day to day basis the Government business to be transacted for inclusion in the list of business. If the list of business for a day has been issued and any fresh item of business to be taken up on that day is received either from the Ministry of Parliamentary Affairs or any other Ministry, a supplementary list of business containing that item or a revised list of business is issued, if necessary. Where the time is short, the supplementary list is circulated to members in the House on the same day.

There are also occasions when the Ministry of Parliamentary Affairs have not intimated any Government business for inclusion in the list of business.<sup>67</sup>

### **Statement of General business in the House**

Each week, a statement is made in the House regarding the Government business to be transacted by the House during the following week so that members could get advance information of the Government business to be transacted by the House.

In the initial years, a practice had started that the Minister of Parliamentary Affairs used to announce the order of Government legislative business from time to time. For instance, in 1956, such business was announced on more than one occasion.<sup>68</sup> It was only from 1 September 1958 that the practice of announcing Government business for the next week commenced fairly regularly. It used to be announced generally on the last working day of the previous week or sometimes in the beginning of the next week.<sup>69</sup>

On 1 September 1958, after the Minister of Parliamentary Affairs announced the Government business in the House for the “current week”, a member responded by saying that he was happy. The Chairman observed, “That is all right. He is going to announce every week.” Thereafter, the member suggested, “It is a good thing that from now onwards the hon’ble Minister would be stating before the House the business for the week. It would help us but I think it would also be very useful if he would kindly consult us before fixing the agenda for the week because it is necessary that he should also look to our convenience. Of course, the final decision rests with him but he can consult us before he makes this announcement.”<sup>70</sup>

The statement regarding Government business for the next week is generally announced by a Minister in the Ministry of Parliamentary Affairs on Fridays after the Chair has announced recommendations of the Business Advisory Committee allocating time for various items of Government business after a weekly meeting of the Committee which is generally held on

Thursday. The statement is also published in Parliamentary Bulletin Part-II for the information of members.

On an occasion, the Government business was announced by the Leader of the House (Shri M.C. Chagla). Objection was taken to this departure from normal practice of announcing the business by the Minister of Parliamentary Affairs. A member contended that the Leader of the House could not announce the business on behalf of the Minister of Parliamentary Affairs because the Leader of the House represented all members. As it was Government business which was being announced, the spokesman must be the Government spokesman and not the Leader of the House. He was becoming a party to the announcement of business on behalf of the Government and thereby precluding himself from the consultations that were needed between him and the Opposition and also debarring himself from his privilege of advising the Minister of Parliamentary Affairs to adjust the business in a particular manner as may be suggested by the Opposition. It was, according to the member, anomalous arrangement and wrong procedure which was being introduced. He, therefore, sought a ruling from the Chairman. The Leader of the House answering the point raised, referring to May's Parliamentary Practice, stated that it was the privilege of the Leader of the House of Commons as that of the Leader of the House of Lords to announce the business. The Chairman also observed, "In the House of Commons, May says that this is the business of the Leader of the House and our rules also say that."<sup>71</sup>

In subsequent years also there have been many instances when the Leader of the House announced the Government business.<sup>72</sup> But whenever a Minister in the Department of Parliamentary Affairs made a statement, he prefaced it by stating that it was "on behalf of the Leader of the House."<sup>73</sup>

There are also occasions, when no statement regarding Government business was made by the Minister of Parliamentary Affairs, i.e. during the first part of the 225<sup>th</sup> Session (March, 2012) and during the entire 227<sup>th</sup> Session (November-December, 2012).

Until about eighties, there used to be a practice that a few members were permitted to make submissions regarding subjects to be included in the next week's agenda.

For instance, on an occasion the Deputy Chairman observed:

Normally, when the business is announced, any member interested in any particular subject being discussed by the House, brings it to the notice of the Hon'ble Minister and to the notice of the House.<sup>74</sup>

On another occasion, after the Minister of State in the Department of Parliamentary Affairs announced Government business for the week commencing 26 August 1974, some members made their submissions.

Thereafter, the Deputy Chairman observed, “It is all right today because we have heard so many members. But on this particular thing regarding next week’s business, I would like that from next time onwards only the leaders of various groups speak...strictly speaking, there is no such thing in the rules”. He further observed, “...if each group could make up its mind on what point to be raised on the next week’s business, the leader of that group or any other representative of that group could speak and this will save a lot of time. This is my suggestion.”<sup>75</sup>

Normally business is arranged in the same order in which it is furnished by the Ministry of Parliamentary Affairs which takes the prior approval of the concerned Minister. Such order of business is not varied on the day that business is set down for disposal unless the Chairman is satisfied that there is sufficient ground for such variation<sup>76</sup> or there is consensus in the House in the matter.

The list of business for 28 August 1968 contained, *inter alia*, the items of Bihar Appropriation Bill, the Gold (Control) Bill, and Appropriation Nos. 3 and 4 Bills in that order. The message regarding the U.P. Appropriation (No. 3) Bill was reported by the Secretary that day itself. It was agreed to take up that Bill, although no list of business therefor was issued. The Government approached the Opposition for some change in the order paper because there was some “special difficulty” for which the Appropriation Bills had to be given a little priority. This was agreed to by the Opposition. The Opposition also agreed, “as a very special case, which should never be taken advantage of by the Government, as a convention” to take up the U.P. Appropriation Bill that day itself. From the Chair also, it was observed that the Chairman was consulted and as a very special case, he agreed to these changes.<sup>77</sup>

The Additional Emoluments (Compulsory Deposit) Amendment Bill, 1977, as passed by the Lok Sabha was listed for consideration in the list of business for two consecutive days. The Bill was for replacing the Ordinance on the subject. When on the last day of the 101<sup>st</sup> Session it did not find a place in the list of business, a point of order was raised. The Deputy Chairman ruled, “In the distribution of time of the House, some time is allotted for the Government business, and it has been a very long standing practice that the Government sometimes presses some matters at a particular time and wants to withdraw some matters at some other time. So far as the Chair is concerned, there is nothing wrong involved in this.”<sup>78</sup>

The Chairman announced on 23 February 1984, that a calling attention on Punjab would be taken up on the next day.<sup>79</sup> When the item was not listed in the list of business for the next day, some members raised the matter. The Chairman explained that the Home Minister had desired some more time for making a statement in response to the proposed calling attention and so he was allowed.<sup>80</sup>

The revised list of business for 9 May 1984, listed an item unfinished from the previous day (further discussion on the working of the Ministry of Industry) as the last item of the day instead of the first one. A point of order was raised on this. The Deputy Chairman ruled with reference to proviso to rule 23 that if the Chairman was satisfied it could be done.<sup>81</sup>

On an occasion, the Opposition wanted that the short duration discussion on price rise should be taken up immediately after Question Hour instead of after the lunch-recess as listed in the list of business. This was conceded.<sup>82</sup>

On the 17 May 2012, the Chair, on demand from Opposition, allowed to take up the short duration discussion on the normalisation of relations with Pakistan and issues relating to human rights violations of minorities in Pakistan before the Government legislative business listed for that day.<sup>83</sup>

On the 13 December 2013, the Chair announced that the private members' business (Resolutions) listed in the revised list of business for the day will be dispensed with to discuss the Lokpal and Lokayuktas Bill, in view of the importance of the legislation and to give members time to participate in the debate.<sup>84</sup>

An item of business may also be included in the list of business if advance intimation is given to the House or leaders of parties informally agree.

The Minister of Law informed the House that Government proposed to bring the Constitution (Fourth Amendment) Bill before the House for its concurrence to refer it to a Joint Committee on 17 March 1955, and the Lok Sabha would be expected to adopt the motion on 15 March 1955. As the inclusion of this motion in the list of business of the House for 17 March 1955 would not be possible before 16 March, he was taking the opportunity to inform the House.<sup>85</sup>

On 30 November 2012, the Chair admitted a motion under rule 170 on FDI in Multi-brand Retail Sector without fixing a specific date and time for discussion. As decided in leader's meeting on 6 December 2012, the motion was taken up for discussion without an entry in list of business.<sup>86</sup>

It is an established practice that ordinarily a part-discussed item of business is put down for further discussion before taking up any other fresh item. However, a part-discussed item of business may not be given priority over other items if the Chairman, on a request made by the Minister concerned or the Leader of the House, so directs or the House agrees therefor.

The Prevention of Corruption (Second Amendment) Bill, 1952, was inconclusively discussed on 1 August 1952. Next day (Saturday),

however, another Bill was listed prior to the said part-discussed Bill. A point of order was raised whether it was in order to bring another Bill before the House without disposing of the earlier Bill already before it. The Chairman ruled:

The point is whether it is right for us to go back on the order of business already arranged. But the House is supreme and with the consent of the House we may make a change in the order of the business but it should not be a precedent.<sup>87</sup>

The Marriage Laws (Amendment) Bill, 2010 was inconclusively discussed on 30 April 2012 and 2 May 2012. The part-discussed Bill was not listed for Minister's reply on 3 May 2012 but the short duration discussion on the issue of reservation for scheduled castes and scheduled tribes in promotions during service and another Government Bill were, *inter alia*, listed and discussed on that day. However, the further consideration of the said part-discussed Bill was deferred on 21 May 2012.<sup>88</sup>

The Constitution (117<sup>th</sup> Amendment) Bill, 2012 was inconclusively discussed on 13 December 2012. The part-discussed Bill was not listed for 14 December 2012 and another Government Bill was passed on that day. The part-discussed Bill was listed as first item under Government legislative business on 17 December 2012 but finally disposed of as second item of the Government legislative business on that day.<sup>89</sup>

If the House adjourns without transacting any business on account of death of a sitting member or an outstanding personality or for any other reason, the formal items of business included in the list of business for that day are generally put down in the list of business for the following day.

### **Private members' business**

Until 1964, as per the then existing rule, the Chairman, after considering the state of business of the House used to allot so many days as might be possible for private members' business.<sup>90</sup> Generally, however, such days were Fridays. In 1964, the Committee on Draft Rules revised the rule to provide that every Friday be allotted for the transaction of private members' business, which was, as already stated, more or less the practice.<sup>91</sup> The Rules Committee while considering the rule observed:

...The existing rule does not provide that private members' business should definitely be taken up at an appointed time. In practice, on Fridays, after the Question Hour, formal business, calling attention and mentioning of matters, if any, the private members' business entered in the list of business for that day is taken up for consideration by the House.

On an occasion, it was noticed that all the business listed in the agenda of the day other than the private members' business as such took so much time that the main private members' business on the agenda could not be taken up. It was, therefore, suggested that the afternoon sitting of each Friday should be reserved for transaction of private members' business only so that the same is definitely taken up at the appointed time for at least two and a half hours.<sup>92</sup>

For instance, on Friday, 18 December 1970, there were five statements made by Ministers. The entire time was spent on seeking clarifications thereon. Resolutions listed on that day, therefore, could not be taken up, it being also the last day of the session (74<sup>th</sup> Session).

The Committee, therefore, recommended a revised rule to provide that unless the Chairman otherwise directed, not less than two and a half hours of a sitting on Friday should be allotted for the transaction of private members' business.<sup>93</sup> Different Fridays are allotted for the disposal of different classes of such business, *i.e.*, Bills and resolutions. As per the practice, the first Friday of a session is earmarked for Bills and the second Friday for resolutions and so on. On Fridays so allotted the business of that class has precedence.<sup>94</sup>

On an occasion, on Friday which was allotted for private members' resolutions, the discussion on international situation continued for three hours. As a result, the second resolution taken up after disposal of the first, remained inconclusive that day. The House, therefore, agreed to take it up on the next Friday which was allotted for private members' Bills, after the disposal of the Bill then under consideration. Accordingly, the resolution was taken up after the disposal of the Bill which was already under consideration of the House.<sup>95</sup>

However, on another occasion, the discussion on a resolution regarding re-orientation of the study of the Medieval Indian History remained inconclusive. A suggestion was made in the House that the discussion should be continued on the next Friday which was allotted for private members' Bills. The Business Advisory Committee considered the suggestion and recommended that the *status quo* be maintained in regard to the private members' business, which had already been notified and private members' Bills be taken up that day as stipulated.<sup>96</sup>

Generally, two and a half hours are allotted on Friday, from 2.30 p.m. to 5.00 p.m. to take up private members' business. If exigencies of the business so required, the time may be shifted so that the private members' business gets not less than two and a half hours. The General Purposes Committee in its meeting held on 28 April 2008 decided that the time limit of two hours for the discussion on a private members' Bill prescribed in the direction of the Chairman issued *vide* Rajya Sabha

Parliamentary Bulletin Part-II dated 2 May 1997 be strictly adhered to. In this context, it was also likewise recommended that a private members' resolution taken up on a day should be disposed of on the same day.

For instance, on the recommendation of the Business Advisory Committee, private members' business listed for Friday, 19 December 1991, was taken up from 3.30 p.m. to 6.00 p.m. instead of from 2.30 p.m. to 5.00 p.m.<sup>97</sup>

Similarly, the private members' business scheduled for 17 May 2002, was taken up immediately after the laying of papers/reports on the Table of the House and special mentions at 12.31 p.m. instead of at 2.30 p.m. to enable the House to hold short duration discussion from 3.30 p.m. onwards on the killings of civilians, army personnel and their family members by terrorists in Jammu and Kashmir.<sup>98</sup>

The private members' legislative business scheduled for Friday, 22 February 2013 was taken up at 5.13 p.m. instead of 2.30 p.m. to facilitate the Home Minister to make a statement on the bomb blast in Hyderabad immediately after re-assembly of the House at 3.00 p.m.<sup>99</sup>

On 15 March 2013, the private members' business scheduled at 2.30 p.m. was taken up at 3.40 p.m. after conclusion of the discussion on Budget (Railways) 2013-14 and return of the Appropriation Bills related thereto as decided by the Chairman in consultation with the leaders of various parties/groups.<sup>100</sup>

Similarly, as recommended by the Business Advisory Committee and as announced in the House, private members' business (resolutions) listed for Friday, 14 March 2008 were taken up on Thursday, 20 March 2008 to complete the discussion on Budget (General) 2008-09.<sup>101</sup> Also, the private members' business (resolutions) listed for Friday, 20 August 2010 were taken up on Saturday, 21 August 2010, as recommended by the Business Advisory Committee and as announced in the House.<sup>102</sup>

On 25 November 2009, the Vice-Chairman announced in the House that private members' business (resolutions) listed for Friday, 27 November 2009 will be taken up on Thursday, 26 November 2009 due to cancellation of the sitting of the House on account of Id-ul-Zuha. Accordingly, the business was taken up on 26 November 2009.<sup>103</sup>

The Chairman may also, in consultation with the Leader of the House, allot any day other than a Friday for the transaction of private members' business.<sup>104</sup>

On many occasions, the Business Advisory Committee had recommended conversion of Fridays into official business days and allotted other days *in lieu* thereof for private members' business. Some of the instances were: (i) 31 August 1956 allotted *in lieu* of

17 August 1956; (ii) 14 August 1969 allotted *in lieu* of 8 August 1969; (iii) 31 July 1971 allotted *in lieu* of 30 July 1971; (iv) 24 December 1977 allotted *in lieu* of 23 December 1977; and (v) 2 September 1988 allotted *in lieu* of 1 September 1988.<sup>105</sup>

As recommended by the Business Advisory Committee, private members' Bills listed for Friday, 22 February 1991, were taken up on Wednesday, 27 February 1991, from 3.30 p.m. to 6.00 p.m., on account of discussion of Gulf war situation for which Question Hour was suspended on that Friday.<sup>106</sup>

On 27 April 1995, the House decided that the discussion on the Motion of Thanks on the President's Address would continue on the next day. Accordingly, the private members' business (resolutions) listed for that day was postponed to Tuesday, 2 May 1995.<sup>107</sup>

If there is no sitting of the House on a Friday, the Chairman directs that not less than two and a half hours of a sitting on any other day in the same week may be allotted for the transaction of private members' business.<sup>108</sup> This is done when already no sittings are fixed on a Friday while allotting days for the transaction of business during a session on account of a public or a Parliamentary holiday, or otherwise.

For instance, during the 170<sup>th</sup> Session, no sitting was fixed on Friday, 25 February 1994, on account of the birthday of Guru Ravi Das. Thursday, 24 February 1994, was, therefore, allotted for private members' business (resolutions). During the 173<sup>rd</sup> Session, Friday, 17 March 1995, was holiday on account of *Holi* and there was no sitting fixed for that day. Thursday, 16 March 1995, was, therefore, allotted for private members' business (Bills). During the 174<sup>th</sup> Session also, Friday, 18 August 1995, was a holiday on account of *Janmashtami* and no sitting was fixed for that day. Thursday, 17 August 1995, was, therefore, allotted for private members' business (bills).<sup>109</sup>

During the 189<sup>th</sup> Session, Friday, 21 April 2000, was a holiday on account of Good Friday, and there was no sitting fixed for that day. Thursday, 20 April 2000, was therefore, allotted for private members' business (resolution).

During the 226<sup>th</sup> Session, private members' legislative business was transacted on Thursday, 9 August 2012 as Friday, 10 August 2012 was a holiday on account of *Janmashtami*.

The above rule, however, does not apply to a situation when a sitting of a Friday is cancelled in the midst of session or the session is extended for Government business and Friday falls during the extended session.

During the 218<sup>th</sup> Session, the sitting of House on Friday, 27 November 2009 was cancelled due to falling of Eid-ul-Zuha on 28 November 2009. The Chair, accordingly, announced on 25 November 2009 to postpone the private members' business (resolution) to 26 November 2009.

Notwithstanding the above, the House may, at the suggestion of the Chairman or on the recommendation of the Business Advisory Committee, decide to convert a Friday into a Government or official day to complete the business.

During early years on many occasions, on the recommendation of the Business Advisory Committee, private members' business already allotted was dispensed with in favour of Government business on Fridays.<sup>110</sup>

On an occasion, the Chairman permitted allotment of a Friday originally allotted for private members' business for Government business on a representation on behalf of different groups.<sup>111</sup>

On another occasion the Chair announced that all parties in the House would like Friday to be an official day.<sup>112</sup>

On another occasion, as suggested by some members and agreed to by the House, the Chair announced that to complete the consideration and passing of the Bihar Reorganisation Bill, 2000 the private members' legislative business for that day *i.e.*, 11 August 2000, was being dispensed with in favour of Government business.<sup>113</sup>

In the 195<sup>th</sup> Session of the Rajya Sabha, private members' business for Bills was allotted on five different dates, *i.e.*, 1 March, 15 March, 19 April, 3 May and 17 May 2002.<sup>114</sup> No private members' business for Bills was taken up due to adjournment of the House on 1 March, 15 March and 19 April 2002.<sup>115</sup> On 3 May 2002, after taking the sense of the House, it was decided not to take up the private members' business for Bills to enable the House to discuss the motion on Gujarat.<sup>116</sup>

During the 220<sup>th</sup> Session, the private members' legislative business listed for Friday, 27 August 2010 was dispensed with in favour of Government business on the recommendation of the Business Advisory Committee. However, members were permitted to introduce private members' Bill on that day.<sup>117</sup>

Private members' business for Bills was taken up on 10 May 2002, the day allotted for private members' business for resolutions on the recommendation of the Business Advisory Committee. On that day, the private members' business for Bills started at 12 noon and continued till 2.30 p.m. and immediately thereafter private members' business for resolutions was taken up and continued till 5.00 p.m.<sup>118</sup>

### **List of business**

A list of business is an Agenda Paper for a day's sitting of the House or Order Paper for the day containing items of business - Government and private members' - which are to be taken up in the House for a particular

day or a number of days in the order indicated therein. For the purpose of facility of reference, a list of business may be identified as the main list which is issued for the day's business; combined list of business which may be issued for two or more days;<sup>119</sup> list of business which may supersede the earlier list;<sup>120</sup> supplementary list which may be issued for inclusion of additional or fresh items not figuring in the main list; and revised list of business which may be issued for re-arrangement, expansion or consolidation of the items already included in the main list of business.

The Secretary-General causes the list of business to be prepared which is made available to each member before the commencement of the sitting of the House on that day.<sup>121</sup> The item "Questions" is shown in the list of business but the lists of starred, unstarred and short notice questions set down for answers on the day are printed and circulated as separate lists. Similarly, amendments to be moved to a Bill, motion (including Motion of Thanks), resolution, etc. are printed and circulated separately. Thus, an Order Paper or Agenda for a sitting consists of the list of business, the lists of questions, the list of papers to be laid on the Table, the list of amendments and the Bills, all combined.

No business, not included in the list of business for the day, is permitted to be transacted at any sitting of the House without the leave of the Chairman.<sup>122</sup> In other words, any matter not included in the list of business cannot be raised unless the Chairman has permitted a member to do so. However, as mentioned earlier, items of business such as oath/affirmation, obituary and other references, etc., introduction of Ministers, questions of privilege, etc. may be taken up in the House without any entry in the list of business. A Minister may also be allowed to make a statement on a matter of urgent public importance which cannot be delayed, with the prior permission of the Chairman, without issue of a supplementary list of business. In such a case the Chair generally makes an announcement to that effect.

A supplementary list of business was issued on Sunday, 10 February 2006, to include a Statement by Minister of External Affairs.

An item of business requiring notice under the rules is put down in the list of business only after the notice period necessary for it expires.<sup>123</sup>

In 2001, the General Purposes Committee, recommended the following modifications in order to make the List of Papers more compact and accessible:

- (i) In pursuance of the provisions of rule 29 of the Rules of Procedure and Conduct of Business in the Council of States, there shall be separate list containing the 'PAPERS TO BE LAID ON THE TABLE'

which shall include the various papers to be laid by Ministers, pursuant to provisions of the Constitution, Acts of Parliament and general directions of the House or Chairman;

- (ii) the list of ‘PAPERS TO BE LAID ON THE TABLE’ shall be circulated as a separate document in a different colour paper along with the main list of business for the day provided that papers being circulated at short notice may be included directly in the supplementary list of business as hitherto;
- (iii) the separate list of ‘PAPERS TO BE LAID ON THE TABLE’ shall be treated as part of the main list of business for the day;
- (iv) the main list of business shall contain the names of Minister(s) who has/have to lay the papers entered in the separate list along with the name of the Ministries in respect of which the papers are to be laid; and
- (v) in case, the House adjourns without actually transacting the business relating to the item, unless otherwise directed by the Chair, the papers listed for the day may be listed in the next question day allotted to the Ministry.

The above procedure is being followed since the 193<sup>rd</sup> Session of the Rajya Sabha and a separate ‘List of Papers to be laid on the Table’ is being issued along with the main/revised list of business giving the detailed description of the papers to be laid. The ‘List of Papers to be laid on the Table’ used to be printed on green coloured paper but is now being printed on pink coloured paper from the 2<sup>nd</sup> part of the 219<sup>th</sup> Session. A common page numbering system is being used and in case of supplementary papers laying the item directly figures on the supplementary list of business.

#### NOTES AND REFERENCES

1. R.S. Deb., 21.7.1975, c. 24, 33-44; and 3.11.1976, c. 38-49.
2. Arts. 112(1) and 115(1).
3. *Ibid.*, 123(2)(a), 352(4), 356(3), 359(3) and 360(2).
4. *Ibid.*, 151(1).
5. *Ibid.*, 281.
6. *Ibid.*, 338(2).
7. *Ibid.*, 340(3).
8. *Ibid.*, 350B(2).
9. *Ibid.*, 323(1).
10. *Ibid.*, 320(5).
11. R. 91.
12. Rs. 153, 198, 211, 212F, 212M, 212V, 219 and 274(3).
13. *Ibid.*, 145.
14. *Ibid.*, 66.
15. *Ibid.*, 112.

16. Rs. 121 *and* 186.
17. Bn. (I), 30.3.1989.
18. *Ibid.*, 13.3.1991.
19. *Ibid.*, 13.2.2009 *and* 18.2.2009.
20. *Ibid.*, 2.7.2009.
21. Bn. (II), 4.3.2011.
22. *Ibid.*, 28.7.2011.
23. *Ibid.*, 11.11.2014 *and* 26.11.2014.
24. R.S. Deb., 30.4.1974, c. 217.
25. *Ibid.*, 2.8.1985, c. 256-58.
26. *Ibid.*, 14.8.1987, c. 337-38.
27. R. 180(5). For detailed procedure see Chapter 18 *infra*.
28. R.S. Deb., 26.11.2014.
29. R. 251.
30. *Ibid.*
31. R.S. Deb., 4.10.1982, c. 272-75.
32. BAC mts., 28.7.1982.
33. Bn. (I), 18.3.2011 *and* 23.3.2011.
34. *Ibid.*, 17.8.2011.
35. *Ibid.*, 27.8.2011.
36. BAC mts., 9.8.1985.
37. *Ibid.*, 1.8.1991.
38. R. 241.
39. R.S. Deb., 31.7.1991, c. 341-42.
40. *Ibid.*, 30.8.1990, c. 152-57.
41. R. 66(1).
42. R. 17(1)(a).
43. R. 184.
44. BAC mts., 4.8.1978.
45. Bn. (II), 11.11.2010; *and* Bn. (I), 17.8.2011, 18.8.2011.
46. R. 176.
47. R. 182(1).
48. R. 60(5).
49. BAC mts., 2.3.1994 *and* 26.7.1994.
50. Bn. (I), 18.3.2013.
51. *Ibid.*, *and* Bn. (II) 21.3.2013.
52. F. No. RS. 4/2013-T.
53. R.S. Deb., 18.2.2014.
54. BAC mts., 8.3.1982.
55. *Ibid.*, 12.8.1993.
56. *Ibid.*, 19.8.1993.
57. R. 23.
58. Bn. (II), 21.2.1959.
59. *Ibid.*, 19.2.1959.
60. R.S. Deb., 20.2.1959, c. 1373.
61. Bn. (II), 17.8.1962.
62. *Ibid.*, 10.8.1962.
63. R.S. Deb., 21.8.1962, c. 2613-35.
64. *Ibid.*, 2.8.1982, c. 210.
65. R. 23.
66. Bn. (II), 13.2.1995.
67. LoB, 22.3.2005, 23.3.2005, 26.2.2007, 27.2.2007 *and* 4.12.2007.
68. Bn. (I), 21.2.1956, 8.3.1956 *and* 27.8.1956.
69. *Ibid.*, 1.9.1958, 5.9.1958, 12.9.1958, 19.9.1958, 24.11.1958, 28.11.1958, 5.12.1958, 12.12.1958 *and* 19.12.1958.
70. R.S. Deb., 1.9.1958, c. 1576-77.

- 
71. R.S. Deb., 17.2.1966, c. 467-70.
72. Bn. (I), 25.2.1966, 4.3.1966, 11.3.1966, 18.3.1966, 25.3.1966, 1.4.1966, 7.5.1966, 13.5.1966, 29.7.1966, 5.8.1966, 16.2.1968, 26.7.1968, 2.8.1968, 23.8.1968, 22.11.1968, 6.12.1968, 13.12.1968 and 20.12.1968.
73. *Ibid.*, 12.8.1966, 9.8.1968, 14.8.1968 and 29.11.1968.
74. R.S. Deb., 19.11.1971, c. 145.
75. *Ibid.*, 24.8.1974, c. 44-46.
76. R. 23, *Proviso*.
77. R.S. Deb., 28.8.1968, c. 4990.
78. *Ibid.*, 28.6.1977, c. 103.
79. *Ibid.*, 23.2.1984, c. 26.
80. *Ibid.*, 24.2.1984, c. 192-99.
81. *Ibid.*, 9.5.1984, c. 179-94.
82. *Ibid.*, 7.8.1990, c. 211.
83. Revised LoB and Bn. (I), 17.5.2012.
84. Bn. (I), 13.1.2013.
85. R.S. Deb., 11.3.1955, c. 1645.
86. Bn. (I), 30.11.2012 and 6.12.2012.
87. C.S. Deb., 2.8.1952, c. 2681-83.
88. Revised LoB, 3.5.2012; Bn. (I), 30.4.2012, 2.5.2012, 3.5.2012 and 21.5.2012.
89. LoB, 17.12.2012; Bn. (I), 13.12.2012, 14.12.2012 and 17.12.2012.
90. R. 23 (as it stood prior to 1964).
91. Report of the Committee on Draft Rules of Procedure, pp. iv-v.
92. 2 Rpt., COR, pp. 1-2.
93. R. 24.
94. *Ibid.*, *Proviso*.
95. R.S. Deb., 27.8.1954, c. 602; Bn. (I), 27.8.1954 and 3.9.1954.
96. BAC mts., 1.8.1977.
97. R.S. Deb., 19.12.1991, c. 509.
98. Bn. (I), 16.5.2002.
99. *Ibid.*, 22.2.2013.
100. *Ibid.*, 15.3.2013.
101. R.S. Deb., 13.3.2008 and 20.3.2008.
102. *Ibid.*, 13.8.2010 and Bn. (I), 21.8.2010.
103. Bn. (I), 25.11.2009 and 26.11.2009.
104. R. 24, 2<sup>nd</sup> *Proviso*.
105. BAC mts., 14.8.1956, 5.8.1969, 20.7.1971, 20.12.1977 and 1.9.1988.
106. R.S. Deb., 22.2.1991, c. 139.
107. Bn. (I), 27.4.1995.
108. R. 24, 3<sup>rd</sup> *Proviso*.
109. Provisional Calendar of Sittings for 170<sup>th</sup>, 173<sup>rd</sup> and 174<sup>th</sup> Sessions.
110. BAC mts., 16.11.1962, 2.6.1964, 3.12.1965, 6.5.1966 and 7.3.1968.
111. R.S. Deb., 6.12.1962, c. 3137.
112. *Ibid.*, 12.3.1964, c. 4168.
113. *Ibid.*, 10.8.2000, c. 332.
114. Provisional Calendar of Sittings for 195<sup>th</sup> Session.
115. Bn. (I), 1.3.2002, 15.3.2002 and 19.4.2002.
116. *Ibid.*, 3.5.2002.
117. *Ibid.*, 27.8.2010.
118. *Ibid.*, 10.5.2002.
119. LoB, 29.4.1994 issued for 2, 3 and 4 May 1994.
120. LoB, 26.8.1968 superseding the Revised LoB, 24.8.1968, LoB, 19.11.1968 superseding combined LoB, 18.11.1968, 22.5.1990, 7.8.1990, 9.8.1994 superseding earlier lists, issued respectively for 23.5.1990, 8.8.1990 and 10.8.1994.
121. R. 29(1).
122. R. 29(2).
123. R. 29(3).

## CHAPTER–16

### Obituary and Other References

**I**t is customary and usual to make obituary references in the House on the demise of sitting members, Ministers, former members, outstanding and eminent personages, national leaders, men and women who have played an important role in the public life of the country and heads of governments of foreign and friendly States. Apart from these, references are also made in the House to major natural calamities or accidents or tragic happenings involving loss of life and property. Befitting the occasions, tributes are offered. Felicitations and laudatory references are also made on some outstanding achievements, significant events, commemorative days or solemn occasions in the House.

#### **(a) Obituary references**

##### *General procedure*

Until 13 November 1972, obituary references on the passing away of members, Ministers, etc. used to be made in the House usually after the questions. In 1972, the General Purposes Committee considered the then existing practice in regard to the making of obituary references and adjournment of the House on the death of Ministers, sitting members, national leaders and other outstanding persons and made the following recommendations:

- (i) In the case of death of a sitting member of the Rajya Sabha, the existing convention of adjourning the House for the day if the death took place in Delhi, in order to enable the members to participate in the funeral or sending of the dead body from Delhi, might be continued.
- (ii) In the case of death of a Minister who, at the time of his death, was not a member of the Rajya Sabha, the House should be adjourned for the day, if the death took place in Delhi, in order to enable the members to participate in the funeral or sending of the dead body from Delhi.
- (iii) In the case of death of the head of a national political party, the House might be adjourned for the day if (a) the deceased was a sitting member of the Lok Sabha at the time of his death; (b) his party was represented in the Rajya Sabha and had been

recognised by the Chairman either as a party or group in the House and (c) the death took place in Delhi, in order to enable the members to participate in the funeral or sending of the dead body from Delhi.

- (iv) In the case of death of an outstanding personality or national leader or a foreign dignitary, the Chairman, in consultation with the Leader of the House, might decide in each case whether the House should be adjourned for the day or not.
- (v) The existing practice of the Chairman alone making a reference should continue to be followed. This would not preclude other party/group leaders also participating in the obituary references on special occasions when there is a general consensus to that effect.
- (vi) Obituary references should be made immediately after the House meets.<sup>1</sup>

These recommendations were notified in the Parliamentary Bulletin Part-II for information of members.<sup>2</sup>

An obituary reference is made in the House at the earliest available opportunity after receiving the news about the passing away of a member, ex-member, Minister, etc. either from a press report or a sitting member or a relation of the deceased or any other reliable source. In case of doubt, confirmation of the death of the personality concerned is also obtained from the appropriate authority of the State Government such as the Chief Secretary, the District Magistrate, etc. before a reference is made.

On 23 May 1970, just before 12.00 noon, a member informed that Shri P. Govinda Menon, the Law Minister was precariously ill. Another member informed that he had expired. The Chairman directed the Secretary to make inquiries. After some time the matter was again raised and members wanted that the House should be adjourned. The Secretary informed the Chairman that the Prime Minister was expected to come to the House. Only after the Prime Minister confirmed it, the Chairman made the obituary reference. Before doing so he observed, "How could I announce it unless I had confirmed it?"<sup>3</sup>

On 17 August 1990, at about 5.15 p.m. a member informed the House about the death of a former lady member of the Lok Sabha in a brutal attack at Calcutta. He wanted that the House should condole the death and be adjourned. The news was not confirmed from official source. When a member wanted that the member giving the information should give more details, the Vice-Chairman observed, "No individual member of the House can substitute for a member of the Government

to take the House into confidence. Any other information is informal information.” After some formal business the House was adjourned.<sup>4</sup> On 20 August 1990, the matter regarding incorrect information was raised in the House and eventually, the member concerned expressed regret for wrong information.<sup>5</sup>

If before the list of business for the day is issued, it is known that an obituary reference is to be made in the House, as per the practice in vogue since 13 November 1972, an entry is made in the list of business under the caption “Obituary Reference(s)” before “Questions” but after “Oath or Affirmation”, if any, mentioning the name of the deceased and whether he was a sitting member or an ex-member, etc. The Question Hour has been shifted from 12 noon to 1.00 p.m. w.e.f. 27.11.2014 with the adoption of Thirteenth Report of the Committee on Rules. With the change in the timings of the Question Hour, the “Obituary References”, if any, are listed after “Oath or Affirmation”, if any, and before the “Laying of Papers”.

The names of the deceased personages, when more than one, especially on the opening day of a session, are shown in the list of business in the order of death sequence; the heads of States of foreign and friendly countries being listed first in the order.

In the list of business for 23 January 1980, under the heading “Obituary References,” the name of Lord Mountbatten appeared first followed by the names of Shri Jayaprakash Narayan and others and the obituary references were made accordingly. The next day, a member raised a point of procedure followed in this respect and made a suggestion for the future that when the obituaries were read the names of the Indians should be in one category, the names of the foreigners should be in another category and in the case of Indians, “the eminence of the Indian personalities” should be kept in view when putting the names. The Chairman observed, “The hon’ble member has made a point which in future I will bear in mind. This time the death sequence was considered and utilised.”<sup>6</sup>

If the information regarding the death of a member or any other person about whom an obituary reference is to be made in the House is received after the issue of the list of business for the day, necessary entry in respect of such reference is made in the memorandum of business prepared for the use of the Chair.

In the list of business for 29 July 2002<sup>7</sup>, the obituary reference to be made in the House regarding the passing away of Shri Krishan Kant, Vice-President of India and Chairman, Rajya Sabha was not mentioned. However, an entry was made in the memorandum of business prepared for the use of the Chair.

On 4 June 2004, obituary reference was made in respect of Dr. Shrikant Ramchandra Jichkar, ex-member without an entry in the list of business of the day.

Similarly, on 21 December 2009, 21 April 2010 and 25 April 2012, obituary references were made in respect of Shri Suryakantbhai Acharya, Shri Krishan Lal Balmiki and Shri B.B. Tiwari, sitting members, respectively, without an entry in the list of business.

There has also been an instance when the obituary reference in respect of Dr. Y. Radhakrishna Murty, ex-member was not made on the day on which it was listed. The obituary reference was originally listed for 6 December 2013. However, as obituary reference to the passing away of Mr. Nelson Mandela, former President of South Africa, was made on that day *i.e.* 6 December 2013, it was decided to make the obituary reference of Dr. Y. Radhakrishna Murty on 9 December 2013 and accordingly, it was listed and made by the Chair on that day.

After an obituary reference is made, the House observes silence for a while, all members standing, as a mark of respect to the memory of the departed. Then the Chairman directs the Secretary-General to convey the sense of sorrow and sympathy of the House to the members of the bereaved family. Thereafter, the House proceeds to the next item in the ‘List of Business’, *i.e.* ‘Laying of Papers’ or adjourns for the day, as may be decided. A letter to the next-of-kin of the departed is issued under the signature of the Secretary-General, as per the direction of the Chairman.

The General Purposes Committee in its meeting held on 9 December 1998, which was subsequently incorporated in Parliamentary Bulletin Part-II, dated 28 January 1999, recommended the following modifications with regard to adjournment of the House on the death of Ministers, sitting members, national leaders and other outstanding persons and making of obituary references:

- (i) In the case of death of a sitting member of Rajya Sabha who dies when Parliament is in session, the House will be adjourned for the day as soon as the message is received or on the following day if the message is received late.
- (ii) In the case of death of a sitting member during the inter-session period, the House will be adjourned on the first day of the session after making obituary reference.
- (iii) In the case of death of a Minister who, at the time of death, was not a member of the Rajya Sabha, the House should be adjourned for the day, if the death took place in Delhi, in order to enable the members to participate in the funeral or sending of the dead body from Delhi.

- (iv) In the case of death of the head of a national political party, the House may be adjourned for the day if (a) the deceased was a sitting member of the Lok Sabha at the time of death; (b) his party was represented in the Rajya Sabha and had been recognised by the Chairman either as a party or group in the House; and (c) the death took place in Delhi, in order to enable the members to participate in the funeral or sending of the dead body from Delhi.
- (v) In the case of death of an outstanding personality or national leader or a foreign dignitary, the Chairman, in consultation with the Leader of the House, might decide in each case whether the House should be adjourned for the day or not.

The Committee also recommended that in the matter of making obituary references the existing practice of the Chairman alone making a reference should be followed. This would not preclude party/group leaders also participating in the obituary reference on special occasions when there is a general consensus to that effect.

The Committee further, recommended that obituary references should be made immediately after the House meets<sup>8</sup>.

The above general procedure is usually followed in regard to the making of obituary references in respect of members, Ministers, etc. However, departures are made as and when circumstances require.

On an occasion, obituary reference was made on the death in Delhi of Shri Mehr Chand Khanna, a former member both of Rajya Sabha and Lok Sabha, on 20 July 1970. When the House re-assembled after the lunch-recess, a member mentioned that the Lok Sabha had adjourned on that score and so the Rajya Sabha should also adjourn. The Leader of the House observed, "... the tradition of the House is that if he is a member of this House and dies during the session, the House adjourns. The Lok Sabha Speaker said that this was not to be treated as a precedent but since all the party leaders made a request the House was adjourned." The suggestion to adjourn the Rajya Sabha was not accepted.<sup>9</sup>

There was at least one occasion when the Chairman made an obituary reference just before adjourning the House *sine die*. It happened on 29 April 1960, the last day of the 29<sup>th</sup> Session of the Rajya Sabha. The Chairman made an obituary reference at 6 p.m. following the sad demise of Pandit Balkrishna Sharma, who was a member of the House. He stated that Pandit Balkrishna Sharma passed away between 3 and 4 p.m. that day and requested the members of the House to stand up for a minute as a token of respect for the departed leader. It is one of the rare obituary references made by the Chairman in the evening and just before the adjournment of the House *sine die*.<sup>10</sup>

*Adjournment on the opening day of the session*

On the opening day of a session, obituary references are made to the passing away of sitting members, former members, Ministers, etc. during the preceding inter-session period. Before 1999, the House was not generally adjourned thereafter except on the opening day of the first session of the year when the House adjourned after laying of a copy of the President's Address on the Table, obituary references and other business of a formal nature. There had, however, been exceptions and the House had adjourned on the opening day of the session as a mark of respect to the departed, namely Shri Rafi Ahmed Kidwai (Minister for Food and Agriculture),<sup>11</sup> Shri H.C. Dasappa (Minister of Industry and Supply),<sup>12</sup> sitting members Shri D. Sanjivayya,<sup>13</sup> Shri Bhupesh Gupta,<sup>14</sup> Shri Bir Bahadur Singh,<sup>15</sup> Shri N.E. Balaram,<sup>16</sup> Shri Jagjivan Ram (National Leader)<sup>17</sup> and Chaudhary Charan Singh and Shri Morarji Desai (former Prime Ministers)<sup>18</sup> who had passed away when the House was not in session. The adjournment of the House in such cases was decided by the Chairman on the basis of the consensus or general wish of leaders of parties, etc.

There has also been an instance when the obituary reference in respect of a sitting member was not made along with others on the opening day of the session but was made on the second day and thereafter the House adjourned for the day.

Shri Darbara Singh, a sitting member died on 12 March 1990, which was the opening day of the 153<sup>rd</sup> Session. After making other obituary references, the Chairman announced that the obituary reference in respect of Shri Darbara Singh would be made on 13 March 1990. It was accordingly made on that day and the House adjourned.<sup>19</sup>

*Adjournment for the rest of the day*

When the news of the death of a member or Minister or any other outstanding personality is received whilst the House is sitting, the practice is that the proceedings are interrupted to make the obituary reference or express sorrow and the House adjourns for the rest of the day.

On 14 March 1961, at about 3.30 p.m. the Deputy Chairman informed the House of the passing away of Shri Ram Kripal Singh, a sitting member, in Delhi. After brief reference by the Chair and observance of silence by members, the House was adjourned at 3.32 p.m. for the rest of the day.<sup>20</sup>

On 29 April 1969, immediately after Question Hour, the Chairman made a reference to the passing away of Shri P.N. Sapru, former member of the House at Hyderabad that morning. Thereafter, the House observed silence. A suggestion was made that the House might be adjourned after lunch "as a matter of respect and homage to that

great soul.” The Chairman suggested that the House would adjourn at 3.30 p.m. At 4.00 p.m. the Vice-Chairman informed the House that the body of late Shri Sapru was expected to arrive in Delhi between 6.30 p.m. and 7.00 p.m. He adjourned the House at 4.02 p.m. for the rest of the day as a mark of respect to Shri Sapru.<sup>21</sup>

Besides adjourning the House on 20 November 1969, as a mark of respect to Shrimati Violet Alva, former Deputy Chairman of Rajya Sabha, the House also adjourned on 21 November 1969 at 2.41 p.m., on a suggestion of a member, to enable members to attend her funeral.<sup>22</sup>

On 23 May 1970, after 12.00 noon, the Prime Minister informed the House about the passing away of Shri P. Govinda Menon in Delhi. After a reference by the Chairman and observance of silence, the House was adjourned *sine die*, being the last day of the 72<sup>nd</sup> Session.<sup>23</sup>

On 23 November 1977, when the House re-assembled after lunch-recess, the Minister of Railways made a statement regarding derailment of Ahmedabad-Delhi Mail and in the course of the statement informed that among the dead was Shri Prakash Veer Shastri, a sitting member of the House. After the Deputy Chairman made a reference and the observance of silence, the House adjourned for the rest of the day at 2.09 p.m.<sup>24</sup>

On 8 December 1981, at about 12.20 p.m., the Deputy Chairman informed the House of the passing away of Shri Kartik Oraon, Minister of State in the Ministry of Communications. The House observed silence and adjourned for the rest of the day at 12.21 p.m.<sup>25</sup>

Sometimes the House has adjourned for the day immediately after receiving the news of the death of a member or Minister and the obituary reference was made at the next sitting.

On 13 August 1963, at 3.42 p.m., the Vice-Chairman informed the House of the passing away of a sitting member Shri Satyacharan Shastri a short while ago that day. The House was adjourned for the rest of the day and obituary reference was made on the next day.<sup>26</sup>

On 27 May 1964, immediately after the House assembled, the Minister of Finance (Shri T.T. Krishnamachari) reported to the House that the Prime Minister, Shri Jawaharlal Nehru, had been taken seriously ill suddenly that morning at 6.25 and his condition was causing anxiety. After Question Hour, one member requested the Chairman to convey the good wishes and the prayer of the House for the recovery of the Prime Minister. When the House re-assembled after the lunch-break at 2.30 p.m. the Minister of Steel, Mines and Heavy Engineering (Shri C. Subramaniam) announced the sad news of the death of the Prime Minister. The House was adjourned for the rest of the day and obituary references were made on 29 May 1964.<sup>27</sup>

On 27 April 1992, in the afternoon, news came about the passing away of Shri A.G. Kulkarni, a sitting member, at Pune that day. There was a demand that the House should be adjourned immediately. The Vice-Chairman adjourned the House for consultations. The House re-assembled after about an hour with the Chairman in the Chair. He adjourned the House for the rest of the day at 3.57 p.m. as a mark of respect to Shri Kulkarni's memory. Obituary references were made by the Chairman and leaders of various parties/groups the next day.<sup>28</sup>

On 25 July 2001, in the afternoon, news came about the death of Shrimati Phoolan Devi, a sitting member of Lok Sabha, who was shot dead at her residence at 1.30 p.m. on that day. Shri Rama Shanker Kaushik, Chief Whip, Samajwadi Party, Rajya Sabha informed the House about her death. The Deputy Chairman then came to the House. She took the sense of the House and the House observed silence. The House was then adjourned for the day. The next day, the Chairman made reference regarding the tragic incident and the House observed silence and adjourned for the day to facilitate members to attend the funeral of Shrimati Phoolan Devi.<sup>29</sup>

Similarly, on 19 March 2002, in the afternoon news came about the death of Shri Dayanand Sahay, a sitting member of the Rajya Sabha, following a tragic road accident. The Vice-Chairman (Shri Adhik Shirodkar) informed the House about the passing away of Shri Sahay and the House adjourned for the rest of the day. On the 20 March 2002, the Chairman made a reference to the passing away of Shri Dayanand Sahay, the House observed silence as a mark of respect to the departed and adjourned for the day.<sup>30</sup>

On 15 December 2006, the Chairman informed the House at 2.33 p.m. about the death of Shrimati Sukhbans Kaur and adjourned the House at 2.34 p.m. for the day. The obituary reference was made on 18 December 2006.<sup>31</sup>

Shri Vilasrao Dagadojirao Deshmukh, a sitting member and Union Minister, passed away on 14 August 2012. The House was adjourned for the day upon receipt of sad news. On 16 August 2012, after making of obituary reference by the Chairman and observance of silence, the House adjourned for the day.<sup>32</sup>

#### *Adjournment for a while or non-adjournment*

Sometimes in view of the business which could not be postponed, the House was adjourned for a while immediately after knowing about the death of a member or Minister and it re-assembled for the transaction of business.

On 31 July 1974, the Chairman made a reference to the passing away of Shri M.B. Rana, Minister of State in the Ministry of Industrial Development in the early hours of the morning that day. The House

observed silence for a minute and adjourned till 5.30 p.m. The House re-assembled at 5.43 p.m. and before it adjourned at 5.46 p.m., the Minister of State in the Ministry of Finance (Shri K.R. Ganesh) laid on the Table a Statement of the Minister of Finance regarding the introduction of the Finance (No.2) Bill, 1974, in the Lok Sabha.<sup>33</sup>

However, on an occasion, which was the last day of the session, the House did not adjourn for the rest of the day or for a while after making obituary reference in respect of a sitting member in view of the business to be transacted.

On 31 January 1985, after the House passed the Constitution (Fifty-second Amendment) Bill, 1985, the Deputy Chairman announced the passing away of Shri Kalyan Roy, a sitting member, at Calcutta in the afternoon that day and made obituary reference about him. The House then observed silence for a minute. The next item on the agenda was consideration and passing of the Administrative Tribunals Bill, 1985 as passed by the Lok Sabha. On the suggestion that the Bill could be taken up during the next session and the House should adjourn as a mark of respect to the memory of Shri Roy, the Deputy Chairman after putting the matter before the House observed, "We wanted... the obituary at the end of the deliberations on this Bill. But we wanted to have most of our members present...we thus did it," and the Bill was taken up for consideration.<sup>34</sup>

On another occasion, the Chairman made the obituary reference, the House observed silence and adjourned for a while in the midst of the sitting to pay respects to the departed.

On 24 March 1992, the Chairman made a reference to the passing away of Dr. Gurdial Singh Dhillon, former Speaker of the Lok Sabha. The House observed silence. At 3.19 p.m. the House was adjourned to enable members to pay respects to late Dr. Dhillon, whose body was brought at Gate No. 1, Parliament House. The House re-assembled at 3.33 p.m.<sup>35</sup>

*Obituary references in respect of former members not made in the House.*

There are also instances when obituary references in respect of former members of Rajya Sabha were not made in the House due to late receipt of information regarding their passing away. In such cases, when information regarding passing away of former members are received in the Secretariat after elapse of a long time, an entry regarding date of death is made in the Register of Obituary References and in the Index Card of the concerned member after taking necessary approval. Obituary references in respect of thirty-one (31) former members of Rajya Sabha were not made in the House. A list in this regard is updated from time to time.

### *Leaders' participation in the reference-making*

The general practice as stated earlier is that an obituary reference is made only by the Chairman on behalf of the House. In exceptional cases, the Prime Minister or the Leader of the House may initiate the reference and leaders and representatives of various parties/groups and some other members may also participate in the reference-making in which case the Chairman would associate himself with the sentiments expressed by various sections of the House at the end.

Prime Minister, Shri Jawaharlal Nehru, informed the House of the death of Acharya Narendra Deva, great socialist leader and sitting member of the House and made a reference to his sad demise. Thereafter, the Chairman associated himself with the sentiments expressed by the Prime Minister.<sup>36</sup>

Obituary references about the death of Dr. Rajendra Prasad, former President of India;<sup>37</sup> Shri G.B. Pant, Leader of the House;<sup>38</sup> Shri Jawaharlal Nehru<sup>39</sup> and Shri Lal Bahadur Shastri,<sup>40</sup> Prime Ministers; Dr. Zakir Husain<sup>41</sup> and Shri Fakhruddin Ali Ahmed,<sup>42</sup> Presidents; and Shri Jagjivan Ram<sup>43</sup> and Chaudhary Charan Singh<sup>44</sup> were initiated by the Leader of the House and then leaders and representatives of various parties/groups in the Rajya Sabha spoke. At the end the Chairman and Deputy Chairman associated themselves with the sentiments expressed.

Obituary references in respect of Dr. Ram Manohar Lohia,<sup>45</sup> Prime Minister, Shrimati Indira Gandhi<sup>46</sup> and former Prime Minister, Shri Rajiv Gandhi<sup>47</sup> were initiated by the Chairman and leaders/representatives of parties/groups, etc. spoke thereafter.

The Prime Minister also spoke after the Chairman made an obituary reference in respect of Shri Bir Bahadur Singh, a sitting member and a Minister.<sup>48</sup>

The Chairman made a reference to the passing away of Shri A.G. Kulkarni, a sitting member. Thereafter, leaders of various parties/groups associated themselves with the sentiments expressed.<sup>49</sup>

### *Condolence resolutions*

In some exceptional cases the House has adopted condolence resolutions proposed by the Chairman or moved by the Leader of the House while making obituary references in respect of the departed.

Resolutions condoling the death of Shri Jawaharlal Nehru, Dr. Zakir Husain and Shri Fakhruddin Ali Ahmed were moved by the Leader of the House.<sup>50</sup> Those on the passing away of Shrimati Indira Gandhi, Khan Abdul Ghaffar Khan and Shri Rajiv Gandhi were placed before the House by the Chairman.<sup>51</sup>

After the leaders of various parties/groups, etc. had spoken, the House adopted the resolution, all members standing and observing silence. Obituary references in respect of other members or personalities were made thereafter and the House again observed silence for them before adjourning for the day.

*Black-bordered Bulletin*

When an obituary reference is made, the Parliamentary Bulletin Part-I which contains the brief record of the proceedings of the House gives names of persons in respect of whom the reference was made and the fact of observance of silence and adjournment of the House. A practice has also been introduced since June 1991 to black-border the Bulletin whenever the House adjourns, after obituary reference, as a mark of respect to the memory of the departed. In the past, the practice of black-bordering of the Bulletin was selective in as much as it was done only in respect of the following:

Acharya Narendra Deva, Speaker, Lok Sabha, Shri G.V. Mavalankar, Shri P.C. Bhanj Deo, Shri G.B. Pant, Dr. Rajendra Prasad, President John F. Kennedy, Shri Jawaharlal Nehru, Shri Lal Bahadur Shastri, Dr. Zakir Husain, Shrimati Violet Alva, Shri Fakhruddin Ali Ahmed and Shrimati Indira Gandhi.<sup>52</sup>

*Obituary references in respect of former Chairmen*

In the matter of obituary references to former Chairmen of the Rajya Sabha, the House observed the following procedure:

Dr. Zakir Husain, former Chairman died on 3 May 1969 (Saturday), while in office as the President. The Leader of the House initiated the reference by moving a condolence resolution on 5 May 1969. Thereafter, leaders of parties/groups and other members spoke. At the end, the Deputy Chairman, while presiding in the absence of the Chairman who, as the Vice-President was acting as the President, associated herself with the sentiments expressed. The resolution was adopted, members observing silence for two minutes. The Deputy Chairman, before adjourning the House for the day observed, "We will all be at Rashtrapati Bhawan to pay our homage to the late President half an hour after the House rises."<sup>53</sup>

Dr. Sarvepalli Radhakrishnan, the first Chairman and the former President, died on 17 April 1975. The House was not in session. Obituary reference was made by the Chairman on the opening day of the 92<sup>nd</sup> Session on 25 April 1975 in respect of Dr. Radhakrishnan as well as in respect of a sitting and two former members. The House observed two minutes' silence as a mark of respect to the memory of the deceased. After the Secretary-General reported two messages from

the Lok Sabha regarding the Constitution (Thirty-seventh and Thirty-eighth Amendment) Bills, 1975 and laid the Bills on the Table, the House adjourned for the day.<sup>54</sup>

On 24 June 1980, the Chairman made a reference to the passing away of Shri V.V. Giri, former Chairman of Rajya Sabha and the President of India, that day in the morning. The House observed silence for one minute, all members standing as a mark of respect to his memory and thereafter adjourned for the day. When the House met the next day, the Leader of the House made a suggestion for adjournment of the Rajya Sabha without transacting any business on account of the cremation of Shri Giri to be held that day. Leaders/representatives of parties/groups in the House supported the suggestion. In view of the unanimous acceptance of the suggestion, the Chairman adjourned the House for the day.<sup>55</sup>

Shri Gopal Swarup Pathak died on 31 August 1982. The House was not in session. The Chairman made references to the passing away of Shri Pathak, Sheikh Mohammad Abdullah, Shri C.D. Deshmukh and two former members of the Rajya Sabha on the opening day of the 124<sup>th</sup> Session on 4 October 1982. The House observed one minute's silence as a mark of respect to the memory of the deceased.<sup>56</sup>

Shri M. Hidayatullah died on 18 September 1992. The House was not in session. The Chairman made references to the passing away of Shri M. Hidayatullah and others on the opening day of the 165<sup>th</sup> Session on 24 November 1992. Before the House met that day, at an informal meeting of the leaders and representatives of parties/groups with the Chairman, it was agreed that the House should adjourn for the day in memory of the former Chairman of the Rajya Sabha, Shri M. Hidayatullah. After observance of silence the House adjourned.<sup>57</sup> It was the first day when after being elected as the Vice-President, Shri K.R. Narayanan, was presiding over the House as the Chairman. National Anthem was not played nor felicitations were offered to the Chairman that day which were done the next day.

On 15 July 2002, the Chairman made a reference to the passing away of Shri Basappa Danappa Jatti, former Chairman, Rajya Sabha. The House observed silence, as a mark of respect to the memory of the departed and then adjourned for the day.<sup>58</sup>

On 29 July 2002, the Deputy Chairman made a reference to the passing away of Shri Krishan Kant, former Chairman, Rajya Sabha who died while in office . The House observed silence for one minute, as a mark of respect to the memory of the departed and then adjourned for the day.<sup>59</sup>

On 26 July 2010, the Chairman made a reference to the passing away of Shri Bhairon Singh Shekhawat, former Chairman, Rajya Sabha on the 15 May 2010. The House observed silence for one minute, as a mark of respect to the memory of the departed and then adjourned for the day.<sup>60</sup>

*Obituary reference for a sitting member of the Lok Sabha*

Usually an obituary reference is not made in the Rajya Sabha on the demise of a sitting member of the Lok Sabha, unless such a member had been previously a member of the Rajya Sabha or the Minister or otherwise eminent. Such references were made on the demise of Prof. Meghnad Saha,<sup>61</sup> an eminent scientist and Dr. Ram Manohar Lohia,<sup>62</sup> a prominent socialist leader, who were also sitting members of the Lok Sabha when they passed away. The House also adjourned for the day in memory of the Speaker, Shri G.V. Mavalankar,<sup>63</sup> Shri Feroze Gandhi,<sup>64</sup> Shri K. Kamaraj,<sup>65</sup> former Congress President, Shri Sanjay Gandhi,<sup>66</sup> Shri Lalit Maken,<sup>67</sup> (the Chairman took the sense of the House and adjourned it—no obituary reference was made nor did the House observe silence) and Shri Frank Anthony<sup>68</sup> (before deciding to adjourn the House, the Deputy Chairman held an informal meeting of leaders in her Chamber that morning).

On the demise of Shri N. V. N. Somu,<sup>69</sup> Union Minister and a sitting member of the Lok Sabha, Shri Indrajit Gupta,<sup>70</sup> an eminent leader and veteran parliamentarian and a sitting member of the Lok Sabha, Shri P.R. Kumaramangalam,<sup>71</sup> Union Minister and a sitting member of the Lok Sabha and Shri Madhavrao Scindia,<sup>72</sup> an eminent parliamentarian and former Union Minister and a sitting member of the Lok Sabha, the Chairman made obituary references, and adjourned the House after observance of silence.

On 4 March 2002, the Chairman made reference to the passing away of Speaker, Lok Sabha, Shri G.M.C. Balayogi and adjourned the House for three consecutive days after observing silence as a mark of respect to the memory of the departed.<sup>73</sup>

On 9 August 1967, the Lok Sabha adjourned on account of the death of one of its sitting members, Shri Jai Bahadur Singh. On a suggestion that the Rajya Sabha should also adjourn, the Chairman observed that unless all sides and all leaders in the Rajya Sabha agreed, it was difficult to create a new precedent because there was only one exception of Shri Feroze Gandhi, a member of Lok Sabha on whose demise the Rajya Sabha was adjourned. The House was, therefore, not adjourned. The Chairman, however, expressed sorrow and the House observed a minute's silence in the memory of the departed.<sup>74</sup>

*Obituary reference about former Prime Ministers/Deputy Prime Ministers*

Obituary references about the passing away of former Prime Ministers, Chaudhary Charan Singh, Shri Rajiv Gandhi, Shri Morarji Desai, Shri Chandra Shekhar and Shri Vishwanath Pratap Singh and former Deputy Prime Ministers, Shri Jagjivan Ram and Shri Devi Lal were made in the Rajya Sabha after which the House was adjourned for the day.

On 23 December 2004, the last day of the 203<sup>rd</sup> Session, at 2:41 p.m., news came about the passing away of Shri P.V. Narasimha Rao, former Prime Minister, on that day. The House observed silence in the memory of the departed and the Chairman adjourned the House *sine die*. Reference to the passing away of Shri P.V. Narasimha Rao was made on 25 February 2005 after which the House observed silence.<sup>75</sup>

On 30 November 2012, at 3.45 p.m., the House was informed by the Minister of Home Affairs about the passing away of former Prime Minister Shri Inder Kumar Gujral. The House adjourned immediately on that day as a mark of respect to the memory of the departed. An obituary reference to his passing away was made in the House on 3 December 2012 and the House adjourned for the day after observance of silence.<sup>76</sup>

#### *Obituary references in respect of important personalities of the country*

As is customary, references are made in the House on the demise of important personalities who have played prominent role in public life of the country or internationally. After the Chair has made the reference, the House observes silence, all members standing, as a mark of respect in the memory of the departed. The following are some of the eminent personalities on whose death, references were made in the House and the House observed silence:

Shri B.N. Rau, Judge, International Court of Justice;<sup>77</sup> Shri Maneckji Byramjee Dadabhoy, member and President of the former Council of State;<sup>78</sup> and Shrimati Sivakamamma Radhakrishnan, wife of the Chairman, Dr. Radhakrishnan.<sup>79</sup>

The Chairman in his letter of reply which was read out to the House expressed his deep gratitude to the Rajya Sabha for their sympathy for him in sorrow and stated, “Even without a formal resolution, I would have known it. It is pleasing to note that the members with whom I have the honour to work sympathise with me in this hour.”<sup>80</sup>

Shri T. Prakasam, Chief Minister of Andhra Pradesh;<sup>81</sup> Dr. Bhagwan Das, Philosopher;<sup>82</sup> Saiyid Fazal Ali, former Judge of the Supreme Court and Chairman, States, Reorganisation Commission;<sup>83</sup> Dr. John Mathai, former Union Finance Minister;<sup>84</sup> Dr. P. Subbarayan, former Union Minister and Governor of Maharashtra;<sup>85</sup> Dr. B. C. Roy, Chief Minister, West Bengal;<sup>86</sup> His Highness Sir Tashi Namgyal of Sikkim;<sup>87</sup> Shri Deen Dayal Upadhyay, President of Jana Sangh;<sup>88</sup> Shri M.S. Aney, prominent leader;<sup>89</sup> Dr. C.V. Raman, Scientist;<sup>90</sup> Shri Sri Prakasa, Governor of Maharashtra;<sup>91</sup> Shri G.M. Sadiq, Chief Minister of J&K;<sup>92</sup> Shri C. Rajagopalachari, the first Indian Governor-General;<sup>93</sup> Shri M.S. Golwalkar, Sar Sanghchalak of R.S.S.;<sup>94</sup> Shri Muzaffar Ahmed, founder member of the Communist Party of India;<sup>95</sup> Sheikh Mohd. Abdullah, former Chief Minister of J&K;<sup>96</sup> Shri C. D. Deshmukh, former Union Finance Minister;<sup>97</sup> Acharya Vinoba Bhave, Bhoodan leader;<sup>98</sup> Sardar Hukam Singh, former Speaker,

Lok Sabha;<sup>99</sup> Shri Tenzing Norgay, Everest climber;<sup>100</sup> Dr. Nagendra Singh, Judge, International Court of Justice;<sup>101</sup> Shri H.N. Bahuguna, former Union Minister of Petroleum and Chemicals;<sup>102</sup> Shri S.M. Joshi, Socialist Leader;<sup>103</sup> Shri S.A. Dange, Communist leader;<sup>104</sup> Shri Achyut Patwardhan, socialist leader;<sup>105</sup> Shri N.T. Rama Rao, former Chief Minister of Andhra Pradesh and a national leader;<sup>106</sup> Giani Zail Singh, former President of India;<sup>107</sup> Shrimati Aruna Asaf Ali, noted freedom fighter;<sup>108</sup> Mother Teresa, Nobel Peace Prize recipient;<sup>109</sup> Shri E.M.S. Namboodiripad, Veteran Leader of Communist Party of India(M);<sup>110</sup> Dr. Shanker Dayal Sharma, former President of India;<sup>111</sup> Shri S. Nijalingappa, member of the Constituent Assembly and eminent Gandhian;<sup>112</sup> and Shri C. Subramaniam, former Union Minister and member of the Constituent Assembly;<sup>113</sup> Shri Murlidhar Devidas Amte *alias* Baba Amte, noted social worker;<sup>114</sup> Pandit Kishan Maharaj, renowned Tabla maestro;<sup>115</sup> Field Marshall S.H. F.J. Manekshaw;<sup>116</sup> Dr. Y.S. Rajasekara Reddy, former Chief Minister of Andhra Pradesh;<sup>117</sup> Shri Jyoti Basu, former Chief Minister of West Bengal;<sup>118</sup> Pandit Bhimsen Joshi, noted Indian classical vocalist;<sup>119</sup> Shri Dorjee Khandu, Chief Minister of Arunachal Pradesh;<sup>120</sup> Shri Sathya Sai Baba, Spiritual leader;<sup>121</sup> Dr. Bhupen Hazarika, Lyricist, composer and singer;<sup>122</sup> Shri Dev Anand, Film actor;<sup>123</sup> Shri Rajesh Khanna, Film actor;<sup>124</sup> Captain Lakshmi Sehgal, noted freedom fighter;<sup>125</sup> Shri Bal Thackeray, founder of Shiv Sena Party;<sup>126</sup> Pandit Ravi Shankar, former member of Rajya Sabha and Sitar maestro;<sup>127</sup> Dr. Narendra Dabholkar, noted Social activist<sup>128</sup> and Shri Manna Dey, noted Singer.<sup>129</sup>

The House has also adjourned as a mark of respect in memory of the following:

Dr. H.C. Mookerjee, Governor of West Bengal;<sup>130</sup> Shri Jayaprakash Narayan;<sup>131</sup> Acharya J.B. Kripalani;<sup>132</sup> Sant Harchand Singh Longowal, Akali leader;<sup>133</sup> Shri M.G. Ramachandran, Chief Minister of Tamil Nadu;<sup>134</sup> Shri Karpoori Thakur, former Chief Minister of Bihar;<sup>135</sup> Gen. A.S. Vaidya, former Chief of Army Staff;<sup>136</sup> Shri J.R.D. Tata, industrialist;<sup>137</sup> Shrimati Aruna Asaf Ali, noted Freedom fighter.<sup>138</sup> Shri Chandra Shekhar, former Prime Minister of India;<sup>139</sup> Shri Vishwanath Pratap Singh, former Prime Minister of India;<sup>140</sup> Shri R. Venkataraman, former President of India;<sup>141</sup> Shri Inder Kumar Gujral, former Prime Minister of India<sup>142</sup> and Shri Sis Ram Ola, Union Minister of Labour and Employment, and sitting member of Lok Sabha.<sup>143</sup>

On occasions the Chair expresses sorrow on behalf of the House over the death of a prominent personality. On the death of Shri Potti Sriramulu,<sup>144</sup> who undertook fast for the formation of a separate Andhra Pradesh and Dr. Imkongliba Ao, Chairman of the Nagaland Interim Council,<sup>145</sup> the Chairman expressed sorrow.

#### *References to demise of Heads of foreign States or eminent international personalities*

In case of demise of the Head of a foreign State or any other outstanding international or eminent foreign personality, the Chairman or

the Prime Minister makes a reference and the House observes silence as a mark of respect to the memory of the deceased. References have been made in the House to the death of the following personalities:

King Tribhuvan Bir Bikram Shah of Nepal;<sup>146</sup> Lady Mountbatten;<sup>147</sup> Jigme Dorji, Prime Minister of Bhutan;<sup>148</sup> Harold Holt, Prime Minister of Australia;<sup>149</sup> Abdel Nasser, President of UAR;<sup>150</sup> Gen. Charles de Gaulle, former President of France;<sup>151</sup> King Mahendra Bir Bikram Shah of Nepal;<sup>152</sup> King Jigme Dorji Wangchuk of Bhutan;<sup>153</sup> Kazi Nazrul Islam, great Bengali poet;<sup>154</sup> Lord Mountbatten;<sup>155</sup> Josip Broz Tito, President of Yugoslavia;<sup>156</sup> Leonid Ilyich Brezhnev<sup>157</sup> and Yuri Vladimirovich Andropov, Presidents of erstwhile USSR;<sup>158</sup> Sir Seewoosagar Ramgoolam, Governor-General of Mauritius;<sup>159</sup> Mr. Samora Machel, President of Mozambique;<sup>160</sup> Gen. Zia-ul-Haq, President of Pakistan;<sup>161</sup> President Kim-Il-Sung of North Korea;<sup>162</sup> Prime Minister Yitzhak Rabin of Israel;<sup>163</sup> Deng Xiaoping, Chinese Leader;<sup>164</sup> King Hussain of Jordan;<sup>165</sup> Julius S. Nyerere, former President of Tanzania;<sup>166</sup> and Mr. Hafez-al-Asad, President of Syria;<sup>167</sup> Mr. Boris Nikolaevich Yeltsin, former President of Russian Federation;<sup>168</sup> Sir Edmund Hillary, legendary mountaineer;<sup>169</sup> Mr. Lech Kaczynski, President of Poland;<sup>170</sup> Mr. Hugo Chavez, President of Bolivarian Republic of Venezuela;<sup>171</sup> Mr. Mohammed Zillur Rahman, President of the People's Republic of Bangladesh;<sup>172</sup> Lady Margaret Thatcher, former Prime Minister of the United Kingdom;<sup>173</sup> and Mr. Nelson Mandela, former President of South Africa.<sup>174</sup>

As soon as the House met on 6 May 1981, some members suggested that obituary reference should be made about Bobby Sands, the Irish freedom fighter and member of British Parliament. The Chairman stated that while he quite sensed the feelings of the House, he could not express himself till the Leader of the House had spoken. The Leader of the House, *inter alia*, explaining the position appealed to the House not to create any new precedent. Thereafter, a member made his observations and towards the end requested the opposition to stand up. At that stage, some members belonging to opposition parties stood up. The Chairman remarked, "It does not look nice. I may inform the House that this was raised in the other House also. But people did not stand in silence." He further said, "It does not look right...to stand." When one member (belonging to ruling party) asked whether it was not contempt or insult of the House, the Chairman closed the controversy with these observations: "...so much heat and so much anger need not be spent on a very sad affair. They have chosen some times to walk out. If they have chosen to stand in silence, you have not done so. You have not walked out with them...I cannot make them sit down in silence or in noise," and proceeded to questions.<sup>175</sup>

The House adjourned for the day after the obituary references were made in respect of Marshal Stalin of USSR;<sup>176</sup> President John F. Kennedy of USA;<sup>177</sup> President Konstantin K. Chernenko of USSR;<sup>178</sup> Prime Minister

Olof Palme of Sweden;<sup>179</sup> Emperor Hirohito of Japan;<sup>180</sup> Ayatollah Ruhollah Khomeini of Iran;<sup>181</sup> and President Ranasinghe Premadasa of Sri Lanka.<sup>182</sup> In case of the demise of Shrimati Sirimavo Bandarnaike, former Prime Minister of Sri Lanka,<sup>183</sup> King Birendra Bir Bikram Shah Dev and his family members;<sup>184</sup> and Mr. Nelson Mandela, former President of South Africa,<sup>185</sup> the Chairman made reference and the House observed silence. Thereafter, the House was adjourned.

Whenever a reference is made to the passing away of a foreign dignitary, the condolence message is sent to the Ministry of External Affairs to be conveyed to the appropriate person or authority of the foreign government concerned.<sup>186</sup>

#### **(b) Tributes and homage**

As occasions demand, the Chairman or members pay tributes or homage to persons for their outstanding actions or achievements, express their sentiments or feelings befitting the occasion.

At the end of short duration discussion regarding U.N. Security Council Resolution calling for ceasefire between India and Pakistan, at the suggestion of the Prime Minister, the House observed one minute's silence, all members standing, "in grateful remembrance of all those who have shed their lives in order that we might live in honour" before adjourning *sine die*.<sup>187</sup>

Leaders paid tributes to the late Trilokyanath Chakravorty Maharaj, freedom fighter of undivided Bengal who died on 10 August 1970.<sup>188</sup>

After the House was informed of the unconditional surrender by the West Pakistani forces in Bangladesh, at the suggestion of a member, the House observed a minute's silence "to pay homage to the brave and valiant soldiers who have laid down their lives in the cause of Bangladesh."<sup>189</sup>

Tributes were offered to Dr. Sarvepalli Radhakrishnan<sup>190</sup> and Shri G.V. Mavalankar<sup>191</sup> on the occasion of their birth centenaries.

Homage was paid to Karl Marx on the occasion of his death centenary.<sup>192</sup> The Chairman offered tributes to Mahatma Gandhi and also proposed a resolution which was adopted, by members standing, on the occasion of the birth centenary year of Mahatma Gandhi.<sup>193</sup>

On the occasion of May Day, the Deputy Chairman greeted the working people and paid homage to all those who strived and struggled for improvement and amelioration of the conditions of the working class throughout the world.<sup>194</sup>

The Prime Minister made a statement on the execution of three African patriots by the illegal Southern Rhodesian Government. Thereafter, the House observed silence in memory of the African patriots.<sup>195</sup>

The Chairman paid homage to Oliver Tambo, Chairman of the African National Party on his demise and Chris Hani, General Secretary of the Communist Party of South Africa who was assassinated.<sup>196</sup>

Whenever the House is sitting on 30 January, which is a Martyrs' Day, the House observes silence for two minutes before commencing the proceedings in memory of those who gave their lives in the struggle for India's freedom. In 1976, 1980 and 1985, the House sat on 30 January and observed silence before commencement of the proceedings.

On 9 August 1967, the Chairman made reference to the Silver Jubilee of Quit India Movement. Members observed silence for a minute, all standing, to 'express great admiration and regard and respect for those who have given their lives for the cause of independence and for all those who have suffered in this cause.' On the solemn occasion of the 50<sup>th</sup> Anniversary of the Quit India Movement, a special sitting of the House was held on Saturday, 8 August 1992, to pay homage to the martyrs. A resolution proposed by the Deputy Chairman was adopted by the House with members standing and observing silence.<sup>197</sup> In fact, whenever the House is sitting on 9 August, it has become almost a regular practice to make reference to the Quit India Movement and observe silence in honour of freedom fighters.

Tributes were offered to Bhagat Singh, Rajguru and Sukhdev on the anniversary of their martyrdom, and silence was also observed in their memory on 23 March 1993,<sup>198</sup> and on 23 March 2011.

Tributes were paid to the Vice-President, Shri V.V. Giri,<sup>199</sup> Shrimati Violet Alva,<sup>200</sup> Dr. (Shrimati) Najma Heptulla,<sup>201</sup> Shri M.M. Jacob,<sup>202</sup> Shrimati Pratibha Devi Singh Patil,<sup>203</sup> Deputy Chairmen and Shri Jaisukhlal Hathi, Leader of the House,<sup>204</sup> who had resigned their respective offices.

Tributes were also paid to Gurudev Rabindranath Tagore on the occasion of his 150<sup>th</sup> Birth Anniversary on 8 May 2012.<sup>205</sup>

The Chairman also made a reference on the occasion of the Birth Anniversary of Dr. S. Radhakrishnan on 5 September 2012.<sup>206</sup>

### **(c) Felicitations, appreciation and greetings**

It is customary to offer felicitations or congratulations on behalf of the House whenever any achievement of great significance takes place. The following were some of the occasions when the House expressed its appreciation:

Election of Dr. G.S. Dhillon, Speaker, Lok Sabha, and of Shri S. L. Shakdher, Secretary, Lok Sabha, as President, respectively of the Inter-Parliamentary Council and the Association of the Secretaries-General of Parliaments,<sup>207</sup> landing on the Moon by Appollo-8 Astronauts and American Astronauts,<sup>208</sup> winning of World Championship by the Indian

Hockey Team,<sup>209</sup> successful launching of SLV-3,<sup>210</sup> success of Indian Hockey Team in the Moscow Olympics,<sup>211</sup> successful launching of APPLE (A resolution moved by the Prime Minister in this regard was also adopted),<sup>212</sup> success of Indo-Soviet Joint Space Flight,<sup>213</sup> climbing of Mount Everest by Shri Phu Dorjee, member of the Indian Mount Everest Expedition Team without oxygen,<sup>214</sup> Indian Cricket Team's victory at Sharjah,<sup>215</sup> and conferment of Oscar Award on Satyajit Ray.<sup>216</sup>

Immediately at the commencement of the House the Chairman made a reference to the successful holding of all-race democratic elections marking the end of apartheid in South Africa and offered greetings and good wishes to the people there.<sup>217</sup> Leaders and representatives of parties/groups in the Rajya Sabha expressed their happiness on the formation of new Government in South Africa. Thereafter, the Deputy Chairman who was in the Chair, placed a resolution before the House welcoming the event. The resolution was adopted unanimously.<sup>218</sup>

On 28 November 1995, the Chairman felicitated Dr. (Shrimati) Najma Heptulla, Deputy Chairman on her election to the Executive Committee of the Inter-Parliamentary Union.<sup>219</sup>

On 21 October 1999, Shri Jaswant Singh, Leader of the House and the Minister of External Affairs, Dr. Manmohan Singh, Leader of the Opposition, Leaders of various parties/groups and some other members felicitated Dr. (Shrimati) Najma Heptulla, Deputy Chairman on her unanimous election as President of the Inter-Parliamentary Council.<sup>220</sup>

On 28 February 2001, Shri Jaswant Singh, Leader of the House, Leaders of various parties/groups and some members felicitated Dr. (Shrimati) Najma Heptulla, Deputy Chairman on being conferred the highest civilian honour, the Grand Cordon of Alavi Wissam by the visiting Moroccan King His Majesty Mohammed VI for her salutary efforts in building Indo-Moroccan friendship.<sup>221</sup>

On 22 October 2008; felicitations were made to India's first scientific mission to the Moon<sup>222</sup> and Medal winners in Beijing Olympics 2008. The Chairman also felicitated the three Indians who had been conferred the Oscar Award, on 24 February 2009.<sup>223</sup> Reference was made to the launch of Agni-V Missile on 24 April 2012;<sup>224</sup> Felicitations were made to Indian sports persons for winning medals at London Olympics 2012 on 13 August 2012;<sup>225</sup> Felicitations were also offered to :- Indian Cricket Team for winning the Under-19 World Cup on 27 August 2012;<sup>226</sup> Launch of Indo-French Statellite 'SARAL' by PSLV-C20 from ISRO Satish Dhawan Space Centre in Sriharikota on 26 February 2013;<sup>227</sup> Ms. Rahi Sarnobat for winning Gold medal in ISSF World Cup at South Korea on 22 April 2013;<sup>228</sup> Indian Cricket Team for winning the 'ICC Champions Trophy';<sup>229</sup> Indian Archery Team for winning medals in the 3<sup>rd</sup> Archery World Cup in Columbia;<sup>230</sup> Ms. K. Jennitha Anto for winning the 13<sup>th</sup> IPCA World Women's Individual Chess Championship for disabled in Czech Republic;<sup>231</sup> Indian Wrestlers' team for winning 15 medals and

Champions' Trophy in Asian Cadet Championship in Mongolia;<sup>232</sup> Shri Aditya Mehta for winning Gold Medal in Men's Snooker in World Games in Columbia;<sup>233</sup> Junior Women's Hockey Team for winning Bronze medal at Junior Women's Hockey World Cup in Germany;<sup>234</sup> Indian Women's Recurve Team (Archery); Under-23 Indian Cricket Team;<sup>235</sup> Successful launch of Mangalyan (Spacecraft to Mars);<sup>236</sup> Shri Sachin Ramesh Tendulkar (Nominated Member of Rajya Sabha) on being conferred the Bharat Ratna;<sup>237</sup> and to the scientists and engineers associated with the successful launch of GSLV-D5.<sup>238</sup>

*Felicitations and tributes to Chairmen and others*

It is an established convention that the House offers congratulations and felicitations to the Chairman on his election as the Vice-President of India at the earliest available opportunity and to the Deputy Chairman immediately after his election.

After his election as the Vice-President, Dr. S. Radhakrishnan presided over the House for the first time on Tuesday, 13 May 1952, which was also the first sitting of the Rajya Sabha and devoted to swearing-in of members. The House adjourned till Friday, 16 May 1952. At the sitting one of the members raised a point stating, "We have not been given an opportunity to congratulate you on your election to this high office." Soon thereafter, the Prime Minister and other leaders/representatives of parties offered felicitations to him. Prime Minister, Shri Jawaharlal Nehru's opening remarks were of significance:

Sir, during the last two or three days we have been engaged in various ceremonials in this House and in the other House. Members have taken the pledges and oaths of service. It is right that we should go through these ceremonials; they have a definite meaning.

And now we start, in both these Houses, on our real work. Before we do so, with your permission, Sir, I should like to say a few words, not of congratulation to you on occupying this high office, but rather of congratulation to the House that we have the privilege of having you here to guide the deliberations of this House as well as, if I may say so, to help us in a multitude of ways in another high capacity.<sup>239</sup>

Felicitations were again offered to him on his re-election as the Vice-President, on 13 May 1957.<sup>240</sup> Tributes were also paid to Dr. Radhakrishnan on his retirement from office of the Chairman, Rajya Sabha.<sup>241</sup>

After his election as the Vice-President, Dr. Zakir Husain presided over the House for the first time on 14 June 1962. On that day the House was adjourned on account of *Muharram* and so the felicitations were offered to him on 15 June 1962.<sup>242</sup> The House bade him farewell on 11 April 1967.<sup>243</sup>

Shri V.V. Giri became the Vice-President on 13 May 1967. The House was not in session. Felicitations were therefore offered to him when the House met for the 60<sup>th</sup> Session on 22 May 1967 after Question Hour.<sup>244</sup> Farewell tributes were paid to him on 22 July 1969.<sup>245</sup>

Shri G.S. Pathak became the Vice-President on 31 August 1969. The House was not in session. Felicitations were therefore offered to him when the House met for the 70<sup>th</sup> Session on 17 November 1969, after Question Hour.<sup>246</sup>

Shri B.D. Jatti became the Vice-President on 31 August 1974. The House felicitated him at its sitting held that day.<sup>247</sup>

Shri M. Hidayatullah assumed office as the Vice-President on 31 August 1979. The House was not in session. The House met on 23 January 1980, for the 112<sup>th</sup> Session. Being the first sitting of the year, it was adjourned after formal business and obituary references. Felicitations were offered to Shri Hidayatullah on 24 January 1980.<sup>248</sup> On his retirement the House bade him farewell on 24 August 1984.<sup>249</sup>

Similarly, Shri R. Venkataraman who became the Vice-President on 31 August 1984, was felicitated on 18 January 1985, the House having commenced the first session of 1985 on 17 January 1985.<sup>250</sup>

Dr. Shanker Dayal Sharma became the Vice-President on 3 September 1987. The House was not in session. Felicitations were offered to him on 6 November 1987, when the House met for its 144<sup>th</sup> Session.<sup>251</sup>

Shri K.R. Narayanan became the Vice-President on 21 August 1992. The House was not in session. It met on 24 November 1992 for its 165<sup>th</sup> Session. The House was adjourned that day as a mark of respect to the memory of the former Chairman, Shri M. Hidayatullah. Felicitations were offered to Shri Narayanan on 25 November 1992.<sup>252</sup>

Shri Krishan Kant became the Vice-President on 21 August 1997. Felicitations were offered to him on 26 August 1997, by the Prime Minister and other members.<sup>253</sup>

Shri Bhairon Singh Shekhawat became the Vice-President on 19 August 2002. The House was not in session. Felicitations were offered to him on 20 November 2002, by the Prime Minister and others.<sup>254</sup>

Shri Mohammad Hamid Ansari became the Vice-President on 11 August 2007 and felicitations were offered to him on 13 August 2007.<sup>255</sup> Felicitations were again offered to him on 13 August 2012 on being re-elected as Vice-President on 11 August 2012.<sup>256</sup>

It is also customary to greet the Chairman and felicitate him on his birthday if the House is sitting that day. This is done by members as soon as the Chairman enters the House at the commencement of the sitting.

Birthday greetings were offered to Shri Gopal Swarup Pathak on 26 February 1973 and 26 February 1974;<sup>257</sup> to Shri B.D. Jatti on

10 September 1974,<sup>258</sup> and to Shri M. Hidayatullah on 17 December 1980 and 17 December 1981. On the latter occasion while responding to the greetings he, *inter alia*, remarked:

I wish to rule that nothing takes place during Question Hour. But I thought out of deference to the very kind words which have been spoken, I should not give that ruling and withhold it for the time being.<sup>259</sup>

Shri R. Venkataraman was felicitated on his birthday on 4 December 1985, and 4 December 1986. On the former occasion while responding he, *inter alia*, remarked:

I think everyone of you would wish that I had a birthday every day, because I have been liberal in calling everybody which I do not do otherwise... today everything said will go on record.<sup>260</sup>

Birthday greetings were offered to Dr. Shanker Dayal Sharma on 19 August 1988. On Friday, 17 August 1990, as soon as he entered the House some members wished him happy birthday. The Chairman while thanking said:

“But my birthday is not today. The Leader of the Opposition quipped: Sir, in anticipation, you may accept. We will come on Sunday.”

On Monday, 20 August 1990, again, some members and the Leader of the House offered him felicitations.<sup>261</sup>

On occasions birthday greetings or wishes are also offered to members/Ministers.

Felicitations were offered to Shri Y.B. Chavan, Minister of Defence on his sixty-first birthday<sup>262</sup> and to Prime Minister, Shri Rajiv Gandhi.<sup>263</sup>

The House, in appropriate cases, expresses its appreciation of the services rendered by a member.

At a meeting of the Business Advisory Committee held on 13 June 1977, the Secretary-General informed that the General Purposes Committee in its last meeting had recommended that a suitable reference relating to completion of twenty-five years of uninterrupted membership of Rajya Sabha by Shri Bhupesh Gupta might be made either in the House or at an appropriate function outside the House. The Committee agreed that reference in this regard be made in the House by the Leader of the House, Leader of the Opposition and the Deputy Chairman on 22 June 1977, immediately after Question Hour. Accordingly, appreciative references were made by all sections of the House and the Deputy Chairman to Shri Bhupesh Gupta’s services.<sup>264</sup>

Tributes were offered to Shri P. Shiv Shanker on his retirement from the membership of the Rajya Sabha, on 13 August 1993.<sup>265</sup>

*Expressions of sense of relief or concern*

The Chairman or members express their sense of relief or satisfaction on a happening.

The Chairman expressed sense of relief at the President's escape from accident in Bhutan.<sup>266</sup>

The Deputy Chairman made a reference to the providential escape of the Prime Minister in an air-crash near Jorhat.<sup>267</sup>

The Chairman and leaders condemned the act of sabotage of the aircraft MAKALU which was to be used by the Prime Minister for her foreign visit and wished her long life.<sup>268</sup>

The Leader of the House moved a resolution, which was adopted, expressing sense of relief that no harm was caused to the Prime Minister when he was attacked in Colombo on 30 July 1987.<sup>269</sup>

Immediately the House assembled before taking up any business, the Leader of the House and leaders/representatives of parties/groups greeted the Chairman, on his return from convalescence.<sup>270</sup>

Members expressed their concern on the detention of Khan Abdul Ghaffar Khan in Pakistan and his failing health.<sup>271</sup>

The Chairman expressed concern on the assault on Shri Sharad Pawar, Minister of Agriculture and Food Processing Industries, and made a reference on the incident on 25 November 2011.<sup>272</sup>

**(d) References to Secretary-General, Rajya Sabha**

Obituary reference was made on the passing away of Shri S.N. Mukherjee, the first Secretary of the Rajya Sabha, while in office.<sup>273</sup>

The Chairman and leaders of parties and groups paid tributes to the Secretary-General, Shri B.N. Banerjee, on his retirement and welcomed his successor Shri S.S. Bhalerao as the new Secretary-General.<sup>274</sup>

Consequent on the retirement of the Secretary-General, Shri S.S. Bhalerao, the Chairman and leaders of parties and groups paid tributes to him and also welcomed his successor Shri Sudarshan Agarwal as the new Secretary-General.<sup>275</sup>

Consequent on the retirement of Shri Sudarshan Agarwal, Secretary-General, the Chairman, the Deputy Chairman and the leaders and representatives of parties/groups paid tributes to him and also welcomed his successor Shrimati V.S. Rama Devi as the new Secretary-General<sup>276</sup> (as a special gesture, Shri Agarwal was seated in the Special Box during the proceedings).

Consequent on the retirement of the Secretary-General, Shrimati V.S. Rama Devi, members paid tribute to her for her services to the House. Shri R.C. Tripathi, Secretary-General, was introduced to the House by the Chairman on 19 November 1997.<sup>277</sup>

Shri R.C. Tripathi remained the Secretary-General from 3 October 1997 till 31 August 2002. His successor Dr. Yogendra Narain became the Secretary-General from 1 September 2002, and was introduced to the House by the Chairman on 18 November 2002.<sup>278</sup>

Obituary references were also made on the passing away of former Secretaries-General, Shri S.S. Bhalerao on 23 July 2001<sup>279</sup> and Shri B.N. Banerjee on 18 November 2002.<sup>280</sup>

Dr. V.K. Agnihotri who became Secretary-General on 29 October 2007 was introduced to the House by the Chairman on 15 November 2007.<sup>281</sup> A reference was also made by the Chairman on his demitting office on 7 September 2012.<sup>282</sup>

Shri Shumsher K. Sheriff who was appointed as the Secretary-General on 1 October 2012 was introduced to the House by the Chairman on 22 November 2012.<sup>283</sup>

Obituary reference was made to the passing away of Shrimati V.S. Rama Devi, former Secretary-General by the Chairman on 22 April 2013.<sup>284</sup>

#### **(e) Welcome to foreign parliamentary delegations**

Whenever a distinguished foreign visitor or a foreign parliamentary delegation visits the Rajya Sabha to watch the proceedings from the Special Box, the Chairman on behalf of the House welcomes the visitors and wishes them pleasant time during their stay in the country and also sends greetings and good wishes to the Government and people of the concerned country. Generally such visits take place sometimes during Question Hour and members also join the Chairman in welcoming the distinguished guests by applause. This practice has started in the Rajya Sabha from 8 December 1981.<sup>285</sup>

#### **(f) References on solemn or significant occasions**

A reference from the Chair has come to be an accepted and established customary procedure for the purpose of echoing and expressing the sentiments and feelings of the House on occasions and events—whether solemn or tragic—of national and international significance. References have been made in the House on the following occasions:

Tenth, Twentieth, Twenty-fifth and Fortieth Anniversaries of the adoption by the United Nations of the Universal Declaration of Human

Rights;<sup>286</sup> completion of 3000 sittings of the Rajya Sabha;<sup>287</sup> meeting of U.S. President Ronald Reagan and Soviet leader Mikhail Gorbachev in Geneva;<sup>288</sup> and signing of Intermediate Range Nuclear Forces (INF) Agreement between President Ronald Reagan and the General Secretary of the Communist Party of the USSR, Mr. Mikhail Gorbachev, at Washington on 8 December 1987.<sup>289</sup>

The Minister of Defence made a statement regarding Pakistan's war against India. At the end, the Chairman expressed sense of solidarity of the House.<sup>290</sup>

The Prime Minister made a statement regarding grant of recognition to Gana Praja Tantri Bangladesh and conveying greetings and felicitations to the Government and people of that country. Thereafter, members of different parties/groups and the Chairman associated with the sentiments expressed through the statement.<sup>291</sup>

On 2 December 1985, a reference was made to the first anniversary of the Bhopal Gas Tragedy.<sup>292</sup> Reference was also made in 2010 and 2012.

It has become almost a regular practice to make a reference to the dropping of atomic bomb on Hiroshima and Nagasaki on 6/9 August 1945, if the House is sitting on those days. On this occasion the House observes silence as a mark of respect to the victims of nuclear holocaust.<sup>293</sup> However, it was discontinued in 2012.

The Chairman offered felicitations to Namibia on its independence.<sup>294</sup>

The Chairman made an appeal to the people of the country from the Chair, in the context of demolition of the Babri Masjid at Ayodhya "to maintain peace, order and amity in this hour of crisis in the nation," and adjourned the House for a week in order to enable the members to return to their States and to their constituencies and to work for this noble cause of restoring peace and amity among the people.<sup>295</sup>

An announcement regarding the *Vijay Diwas* - 25<sup>th</sup> Liberation Day of Bangladesh - was made by the Deputy Chairman.<sup>296</sup>

A reference regarding the Universal Declaration of Human Rights was made by the Chairman.<sup>297</sup>

A reference was made by the Chairman on the completion of fifty years of the Constitution of India on 26 November 1999.<sup>298</sup>

The Deputy Chairman made a reference on the International Women's Day on 8 March 2000. Thereafter, it has been a regular practice to make a reference in the House.<sup>299</sup>

On 14 December 2001 a reference was made by the Chairman on the terrorist attack on the Parliament Building. Thereafter, it has been a regular practice to make a reference in the House.

The Chairman made a reference regarding soldiers martyred in Kargil Operations. Reference was also made to the first anniversary of India's victory in Kargil.<sup>300</sup>

The Chairman made a reference to the fiftieth anniversary of Rajya Sabha on 13 May 2002.<sup>301</sup>

References were also made on the occasion of anniversary of Mumbai terrorist attack in 2010 and 2012;<sup>302</sup> Golden Jubilee of Goa's liberation in 2011;<sup>303</sup> World Water Day in 2012 and 2013;<sup>304</sup> National Panchayati Raj Diwas in 2012 and 2013;<sup>305</sup> and World Earth Day in 2013.<sup>306</sup>

#### **(g) References to tragic happenings**

It is the practice to make references to the tragic happenings either in the country or outside involving loss of life and property. The Chairman expresses sympathies and sorrow or grief on behalf of the House for those who have suffered or affected by the tragic occurrences such as major rail,<sup>307</sup> air<sup>308</sup> accidents, or earthquakes or other tragic events or natural calamities.

References were made to the explosion of ammunition packages at Pathankot military area;<sup>309</sup> accidents at Bhakra Dam;<sup>310</sup> accidents at Bhilai Steel Plant;<sup>311</sup> devastating fire in Ahmedabad wherein several persons died,<sup>312</sup> killings in Punjab in 1986 (the House adopted a resolution proposed by the Chairman condemning the killings)<sup>313</sup> and also in 1987;<sup>314</sup> earthquakes in Kashmir in 1963,<sup>315</sup> in Bihar, West Bengal, North-eastern parts of India and Nepal and Bangladesh in August 1988;<sup>316</sup> in USSR in December 1988<sup>317</sup> and the violence that took place within the sacred precincts of the Sabarmati Ashram in Gujarat.<sup>318</sup>

The Leader of the House made a statement regarding the calamity befallen on the people of East Pakistan on account of the cyclones, and expressed sense of sorrow and grief on the loss of human lives and extended heartfelt sympathies to the Government and people of Pakistan. Leaders of various groups and the Deputy Chairman associated themselves with the sentiments.<sup>319</sup>

On occasions, in view of the gravity of happenings, besides expression of sympathies and sorrow, the House has observed silence, all members standing, as a mark of respect to those who lost their lives in (i) train<sup>320</sup> and air accidents;<sup>321</sup> (ii) earthquakes-in Koyna in 1967,<sup>322</sup> in Gujarat in 1970 (the House adopted a motion moved by three members of the House expressing sympathies for the sufferers),<sup>323</sup> in Garhwal in 1991,<sup>324</sup> in Latur, Osmanabad in Maharashtra and some parts of Andhra Pradesh and Karnataka in 1993;<sup>325</sup> (iii) sewage plant in Delhi in 1957,<sup>326</sup> killings in Assam in 1983<sup>327</sup> and Bhopal Gas Tragedy in 1984.<sup>328</sup> The other events when the House observed silence were: Israeli attack on Indian personnel in Gaza,<sup>329</sup> Kumbha

Mela tragedy of 1954 (the House adopted a motion of condolence proposed by the Chairman)<sup>330</sup> and of 1986;<sup>331</sup> cyclones in South India;<sup>332</sup> floods in Morvi in Gujarat;<sup>333</sup> kidnapping and gruesome murder of two children—Geeta and Sanjay Chopra in Delhi;<sup>334</sup> killings in Punjab and Haryana;<sup>335</sup> bomb blasts in Bombay;<sup>336</sup> death of devotees at Baripada in Orissa in a devastating fire in 1997;<sup>337</sup> tragic death of several Indian Haj pilgrims in a devastating fire at Mina near Mecca in 1997;<sup>338</sup> large scale loss of life and destruction in the earthquake in Iran in 1997;<sup>339</sup> severe tornado that swept through several villages of Midnapore (West Bengal) and Balasore (Orissa) in 1998;<sup>340</sup> tragic train accident at Khanna in Punjab in 1998;<sup>341</sup> AN-32 transport plane crash in 1999;<sup>342</sup> earthquake in several parts of North India especially in Garhwal region;<sup>343</sup> super cyclone that hit the coastal parts of Orissa;<sup>344</sup> Kargil Operation;<sup>345</sup> brutal killings of innocent people by militants in J&K almost every other day;<sup>346</sup> severe earthquake in several parts of Gujarat which took place in 2001;<sup>347</sup> deaths of Amarnath Pilgrims in 2001;<sup>348</sup> bomb blast at J&K Assembly in 2001;<sup>349</sup> and terrorist attack in the USA in 2001.<sup>350</sup>

In the 196<sup>th</sup> Session, references were made regarding massacre by terrorists at Kasim Nagar near Narwal bye-pass in the outskirts of Jammu city<sup>351</sup> and killing of pilgrims and injury to several others by militants during the Amarnath Yatra in Jammu and Kashmir on 6 August 2002.<sup>352</sup> The House observed silence, all members standing as a mark of respect to the memory of the departed. On 9 August 2002, the Deputy Chairman made a reference to the Quit India Movement launched under the leadership of Mahatma Gandhi in 1942 and the House observed silence, all members standing as a mark of respect to the memory of martyrs and freedom fighters.<sup>353</sup>

References were also made regarding derailment of Howrah-New Delhi Rajdhani Express, terrorist attack on the Akshardham Temple, Gandhinagar and taking of hostages by terrorists in a theatre in Moscow 18 November 2002;<sup>354</sup> terrorist attack on Raghunath temple in Jammu on 25 November 2002;<sup>355</sup> earthquake in Algeria on 21 July 2003;<sup>356</sup> crash of ONGC helicopter into the Arabian Sea on 13 August 2003;<sup>357</sup> twin bomb blasts in Mumbai on 2 December 2003;<sup>358</sup> earthquake at Bam in Iran on 20 January 2004.<sup>359</sup> Bomb blast in Samjhauta Express near Panipat on 23 February 2007;<sup>360</sup> terrorist attack in Algiers on 26 April 2007;<sup>361</sup> terrorist attacks in Casablanca, Morocco on the 26 April 2007;<sup>362</sup> twin bomb blasts in Hyderabad on 29 August 2007;<sup>363</sup> truck accident that occurred in the Rajsamand District of Rajasthan on 10 September 2007;<sup>364</sup> massive earthquake in Haiti on 22 February 2010;<sup>365</sup> earthquake in Chile on 9 March 2010;<sup>366</sup> Air India plane crash in Mangalore on 26 July 2010;<sup>367</sup> collision of Jnaneshwari Express with a goods train near Kharagpur on 26 July 2010;<sup>368</sup> collision of Uttar Banga Express with Vanachal Express at Sainthia, West Bengal on

26 July 2010;<sup>369</sup> Maoist attacks in Dantewada and Narayanpur districts of Chhattisgarh on 26 July 2010;<sup>370</sup> cloud burst and flash floods in Leh Town of Ladakh on 9 August 2010;<sup>371</sup> Tsunami in Indonesia on 9 November 2010;<sup>372</sup> building collapse in East Delhi on 18 November 2010;<sup>373</sup> bridge stampede in Cambodia on 26 November 2010;<sup>374</sup> stampede in Pullumedu near Sabarimala temple, Kerala on 21 February 2011;<sup>375</sup> earthquake in Christchurch in New Zealand on 4 March 2011;<sup>376</sup> massive earthquake and Tsunami in Japan on 14 March 2011;<sup>377</sup> Chhapra-Mathura Train accident on 1 August 2011;<sup>378</sup> derailment of Howrah-Kalka Mail and blast in Guwahati-Puri Express on 1 August 2011;<sup>379</sup> cruise ship sinking in Russia on 1 August 2011;<sup>380</sup> serial bomb blasts in Mumbai on 1 August 2011;<sup>381</sup> bomb explosion and shooting in Oslo and Utoya Island, Norway on 1 August 2011;<sup>382</sup> earthquake in Sikkim and Turkey on 22 November 2011;<sup>383</sup> floods in Thailand on 22 November 2011;<sup>384</sup> fire in Transgenders' National Congregation at Nand Nagri, Delhi on 22 November 2011;<sup>385</sup> fire in Howrah-Dehradun Doon Express on 23 November 2011;<sup>386</sup> fire in AMRI Hospital, Kolkata on 12 December 2011;<sup>387</sup> tropical storm 'Washi' in Philippines on 20 December 2011;<sup>388</sup> earthquake in Philippines on 12 March 2012;<sup>389</sup> avalanches in Guraz and Sonamarg sectors of Jammu and Kashmir on 12 March 2012;<sup>390</sup> maoist attack on CRPF Jawans in Gadchiroli District, Maharashtra on 28 March 2012;<sup>391</sup> ferry mishap in Assam on 2 May 2012;<sup>392</sup> plane crash in Nepal on 16 May 2012;<sup>393</sup> floods and landslides and ethnic violence in Assam on 8 August 2012;<sup>394</sup> casualties in Amarnath Yatra, 2012 on 8 August 2012;<sup>395</sup> road accident in Haryana on 8 August 2012;<sup>396</sup> fire in Tamil Nadu Express on 8 August 2012;<sup>397</sup> cloudburst and flash floods in Uttarakhand on 8 August 2012;<sup>398</sup> shooting incident in Gurudwara in USA on 8 August 2012;<sup>399</sup> earthquake in Iran on 14 August 2012;<sup>400</sup> fire in fireworks unit in Sivakasi, Tamil Nadu on 6 September 2012;<sup>401</sup> superstorm Sandy in USA on 22 November 2012;<sup>402</sup> cyclone Nilam in Tamil Nadu and Andhra Pradesh on 22 November 2012;<sup>403</sup> fire in a garment factory in Bangladesh on 4 December 2012;<sup>404</sup> typhoon Bopha/Pablo in the Philippines on the 18 December 2012;<sup>405</sup> stampede at Allahabad Railway Station on 21 February 2013;<sup>406</sup> bomb blast in Hyderabad on 22 February 2013;<sup>407</sup> fire in a market building on Surya Sen Street in Central Kolkata on 1 March 2013;<sup>408</sup> school bus accident in Jalandhar, Punjab on 6 March 2013;<sup>409</sup> attack on security personnel in Srinagar on 15 March 2013;<sup>410</sup> road accident in Maharashtra on 20 March 2013;<sup>411</sup> killing of Indian Army personnel during UN Peace Keeping Mission in Sudan on 22 April 2013;<sup>412</sup> bomb blasts in Boston, USA on 22 April 2013;<sup>413</sup> and collapse of residential building in Thane, Maharashtra on 22 April 2013.<sup>414</sup>

When the Chairman was making a reference to victims of flood in Bihar on the 17 October 2008,<sup>415</sup> some members *inter alia* suggested that a reference may also be made to the victims of floods in Assam, Orissa, Gujarat and in other parts of the country. Thereafter, the House

was adjourned briefly and a reference from the Chair was made accordingly.

The Chairman also made a reference to the demise of Shri Sarabjit Singh, an Indian prisoner lodged in a Pakistani Jail, who was brutally assaulted by fellow inmates on 2 May 2013;<sup>416</sup> flash floods, landslides and cloudbursts in Uttarakhand on 5 August 2013;<sup>417</sup> maoist attack in Chhattisgarh on 5 August 2013;<sup>418</sup> terrorist attacks in Srinagar;<sup>419</sup> maoist attack in Jharkhand;<sup>420</sup> serial bomb blasts in Mahabodhi Temple, Bihar;<sup>421</sup> victims of mid-day meal in Saran District, Bihar;<sup>422</sup> victims of INS Sindhurakshak submarine tragedy;<sup>423</sup> victims of train accident involving 12567 Rajyaram Express in Bihar;<sup>424</sup> stampede near Ratangarh temple in Madhya Pradesh on 13 October 2013;<sup>425</sup> fire in luxury bus on Bangalore-Hyderabad National Highway in Andhra Pradesh on 30 October 2013 and in another bus in Haveri, Karnataka on 14 November 2013;<sup>426</sup> series of incidents in Muzaffarnagar District, Uttar Pradesh in August 2013, and incident at a rally in Patna on 27 October 2013;<sup>427</sup> fire in Bangalore-Nanded Express;<sup>428</sup> Bus accident in Malshej Ghat in Maharashtra;<sup>429</sup> Fire in Mumbai-Dehradun Express in Maharashtra;<sup>430</sup> capsizing of 'Aqua Marine' boat in Andaman & Nicobar Islands;<sup>431</sup> and road accident on Pune-Satara Highway;<sup>432</sup> terrorist attack on a shopping Mall in Nairobi, Kenya from 21 to 24 September 2013;<sup>433</sup> super Typhoon 'Yolanda' (Haiyan) in Philippines on 8 November 2013;<sup>434</sup> and crash of Boeing 737 in Kazan, Russia on 17 November 2013.<sup>435</sup>

In the following cases, the House adjourned as a mark of respect to the memory of the deceased:

The House adjourned for half-an-hour on the firing on Satyagrahis by Portuguese authorities in Goa.<sup>436</sup> The House adjourned for the day on account of tragedy at the Qutab Minar in which a number of children died. The Chairman associated himself with the expression of sorrow at the next sitting of the House.<sup>437</sup>

The House adjourned till noon on 26 August 1996, after reference to and observance of silence on the death of Amarnath pilgrims.<sup>438</sup> The House adjourned for the day as a mark of respect to the memory of all those who lost their lives in the terrorist attack on the Parliament House on 13 December 2001.<sup>439</sup>

The House condemned the execution of Benjamin Molaise, freedom fighter of Africa.<sup>440</sup>

#### **(h) Resolutions adopted unopposed**

Apart from condolence resolutions which have been adopted by the House, as already mentioned, the House also adopts resolutions on events and issues which are of great national and international significance, without discussion and dissent. They are proposed from the Chair or moved by the

Leader of the House or the Prime Minister or any other Minister. They embody and reflect the general will and wish of the House.

*(a) Resolutions/Motions from the Chair*

Paying homage to Mahatma Gandhi on his Birth Centenary;<sup>441</sup> welcoming the Delhi Declaration issued at the conclusion of the Six Nation Summit held in Delhi on Nuclear Disarmament on 28 January 1985 (by way of a motion);<sup>442</sup> commemorating the Fortieth Anniversary of the founding of the United Nations Organisation falling on 24 October 1985;<sup>443</sup> condemning the bombing of Libya by US Forces, at the end of discussion of calling attention on the subject;<sup>444</sup> condemning apartheid in South Africa;<sup>445</sup> condemning killings in Punjab;<sup>446</sup> demanding immediate and unconditional release of Nelson Mandela;<sup>447</sup> exhorting people to preserve and promote amity and harmony and to uphold secular character and traditions of India, in the context of Babri Masjid-Ram Janam Bhoomi Dispute;<sup>448</sup> welcoming release of Nelson Mandela;<sup>449</sup> appealing political parties and religious organisations to preserve and promote communal harmony, in the context of communal riots in Gonda (UP) at the end of the matter raised by members;<sup>450</sup> appealing to avert war, in the context of Gulf crisis;<sup>451</sup> urging end to Gulf War;<sup>452</sup> appealing doctors to end strike, at the end of discussion of calling attention on the subject;<sup>453</sup> appealing to end violence in Karnataka on Cauvery water dispute;<sup>454</sup> paying homage to martyrs on the occasion of the Fiftieth Anniversary of Quit India Movement;<sup>455</sup> condemning Pakistan's interference in the internal affairs of India and promoting terrorist activities in Jammu and Kashmir;<sup>456</sup> welcoming formation of new Government in South Africa;<sup>457</sup> commemorating the Fiftieth Anniversary of the founding of the UNO;<sup>458</sup> and attack at Kaluchak, Jammu by terrorists belonging to Lashkar-e-Taiba and Jaish-e-Mohammed.<sup>459</sup> On 9 April 2003, the Chairman moved a resolution deplored the military action by the coalition forces led by USA against sovereign Iraq, calling for the immediate cessation of hostilities and quick withdrawal of coalition forces from Iraq and calling upon the United Nations to protect the sovereignty of Iraq.<sup>460</sup>

On the 11 December 2008,<sup>461</sup> the Chairman moved a resolution unequivocally condemning heinous attacks in Mumbai by terrorist elements from Pakistan. A resolution was adopted by the Rajya Sabha at the Special Sitting of Parliament on the occasion of the Sixtieth Anniversary of the First Sitting of Parliament on 13 May 2012;<sup>462</sup> and the Chairman moved a resolution each on 15 March 2013 and 14 August 2013 rejecting the resolution passed by the National Assembly of Pakistan on 14 March 2013 and on 13 August 2013, respectively. The same were unanimously adopted by the House.<sup>463</sup>

*(b) Resolution/Motion by the Prime Minister*

Developments in East Bengal and extending support to people in their struggle there;<sup>464</sup> successful launching of APPLE;<sup>465</sup> and appreciating

successful completion of the Seventh Conference of Heads of State/ of Government of Non-Aligned Countries held in New Delhi (by way of a motion).<sup>466</sup>

(c) *Resolutions by the Leader of the House*

Expressing deep concern over killings in Assam and appealing people of Assam to strengthen feelings of brotherhood and cooperation, at the end of discussion on the motion regarding situation in Assam;<sup>467</sup> expressing sentiments in connection with dastardly attack on the Prime Minister at Colombo;<sup>468</sup> condemning the desecration and demolition of the Babri Masjid at Ayodhya;<sup>469</sup> condemning the barbarism and anti-civilisational intent of the Taliban in Afghanistan in the strongest possible terms;<sup>470</sup> and storming of the estate and precincts of State Legislature of Orissa by persons belonging to VHP and the Bajrang Dal.<sup>471</sup>

(d) *Motion by the Leader of the Opposition*

Expressing concern at the situation in Jammu and Kashmir moved by Shri P. Shiv Shanker while participating in the discussion on the statement on the subject made by the Home Minister.<sup>472</sup>

(e) *Resolution by the Minister of State in the Ministry of External Affairs*

Condemning apartheid in South Africa and appealing to international community to save Benjamin Moloise moved with the permission of the House, at the end of a short duration discussion on racial riots in South Africa.<sup>473</sup>

**(i) Good wishes to retiring members and welcome to newly elected/nominated members**

About one-third of the members of the Rajya Sabha retire every second year on the expiration of their term.<sup>474</sup> It is customary to offer good wishes or bid formal farewell to them after Question Hour. Until 1986, this used to be generally done towards the close of the March-April session as most of such members used to retire on 2 April of every even year. In view, however, of the retirement of members at dates different from the 2 April of even year, farewell is offered as and when retirement of members is imminent, during the session. Members who are due to retire also give their responses.

After members who are newly elected/nominated have made and subscribed oath or affirmation and taken their seats, the Chairman welcomes them on behalf of the House.

**(j) Valedictory remarks on the conclusion of the session**

It is also customary in every session for the Chair to make valedictory remarks thanking members and leaders of parties and groups for their cooperation in the conduct of business, before the House adjourns

*sine die*. This practice started from the conclusion of the 37<sup>th</sup> Session.<sup>475</sup> Leaders/representatives of parties present also make observations appreciating the transaction of business.

However, in the 172<sup>nd</sup>, 175<sup>th</sup>, 177<sup>th</sup>, 182<sup>nd</sup>, 186<sup>th</sup>, 203<sup>rd</sup>, 211<sup>th</sup>, 213<sup>th</sup> and 224<sup>th</sup> Sessions when the Rajya Sabha was adjourned *sine die* no valedictory remarks could be made.<sup>476</sup> In the 196<sup>th</sup> Session, the Deputy Chairman laid the valedictory remarks on the Table.<sup>477</sup> On two occasions, the valedictory remarks were made twice, both on the completion of first part and second part of the 155<sup>th</sup><sup>478</sup> and 200<sup>th</sup><sup>479</sup> Session of Rajya Sabha.

Since 216<sup>th</sup> Session, the statistical information pertaining to respective Session is distributed to the members after the valedictory remarks have been made by the Chair in the House. The valedictory speech and statistical information are also posted on the Rajya Sabha website.<sup>480</sup> No valedictory remarks on the conclusion of 224<sup>th</sup> Session was made, the statistical information of the session was posted on the website.<sup>481</sup>

Though 230<sup>th</sup> Session was held in two parts, no valedictory remarks were made after the first part and the same were made at the conclusion of the second part. However, statistical information pertaining to both parts of 230<sup>th</sup> Session were prepared and posted on the website.

#### NOTES AND REFERENCES

1. GPC mts., 1.9.1972.
2. Bn. (II), 10.11.1972.
3. R.S. Deb., 23.5.1970, c. 25 and 28-30.
4. *Ibid.*, 17.8.1990, c. 317-26.
5. *Ibid.*, 20.8.1990, c. 293-317.
6. *Ibid.*, 24.1.1980, c. 16-17.
7. LoB, 29.7.2002.
8. Bn. (II), 28.1.1999.
9. R.S. Deb., 27.7.1970, c. 157-60.
10. *Ibid.*, 29.4.1960, c. 2702.
11. *Ibid.*, 25.11.1954, c. 1-4.
12. *Ibid.*, 16.11.1964, c. 1-4.
13. *Ibid.*, 8.5.1972, c. 1-2.
14. *Ibid.*, 17.8.1981, c. 6.
15. *Ibid.*, 18.7.1989, c. 1-6.
16. *Ibid.*, 25.7.1994, c. 5-6.
17. *Ibid.*, 17.7.1986, c. 4-24.
18. *Ibid.*, 27.7.1987, c. 2-20; and 24.4.1995, c. 2-3.
19. *Ibid.*, 12.3.1990, c. 35; and 13.3.1990, c. 1-2.
20. *Ibid.*, 14.3.1961, c. 2848.
21. *Ibid.*, 29.4.1969, c. 358-59, 363 and 462.
22. *Ibid.*, 21.11.1969, c. 909 and 922.
23. *Ibid.*, 23.5.1970, c. 28-30.
24. *Ibid.*, 23.11.1977, c. 188-90.
25. *Ibid.*, 8.12.1981, c. 177-78.

26. R.S. Deb., 13.8.1963, c. 154; *and* 14.8.1963, c. 233-34.
27. *Ibid.*, 27.5.1964, c. 1,58,80; *and* 29.5.1964, c. 81-108.
28. *Ibid.*, 27.4.1992 *and* 28.4.1992.
29. Bn.(I), 25.7.2001 *and* 26.7.2001.
30. *Ibid.*, 19.3.2002 *and* 20.3.2002.
31. R.S. Deb., 15.12.2006 *and* 18.12.2006.
32. *Ibid.*, 14.8.2012 *and* 16.8.2012.
33. *Ibid.*, 31.7.1974, c. 1-2 *and* 116.
34. *Ibid.*, 31.1.1985, c. 170-72.
35. *Ibid.*, 24.3.1992, c. 1-2.
36. *Ibid.*, 20.2.1956, c. 199-200.
37. *Ibid.*, 1.3.1963, c. 1369-82.
38. *Ibid.*, 7.3.1961, c. 1975-88.
39. *Ibid.*, 29.5.1964, c. 81-108.
40. *Ibid.*, 14.2.1966, c. 21-40.
41. *Ibid.*, 5.5.1969, c. 967-90.
42. *Ibid.*, 28.2.1977, c. 3-22.
43. *Ibid.*, 17.7.1986, c. 4-24.
44. *Ibid.*, 27.7.1987, c. 2-20.
45. *Ibid.*, 20.11.1967, c. 113-45.
46. *Ibid.*, 17.1.1985, c. 22-68.
47. *Ibid.*, 3.6.1991, c. 1-51.
48. *Ibid.*, 18.7.1989, c. 1-6.
49. *Ibid.*, 28.4.1992, c. 1-22.
50. *Ibid.*, 29.5.1964, c. 83; 5.5.1969, c. 967; *and* 28.2.1977, c. 5 *and* 20.
51. *Ibid.*, 17.1.1985, c. 22-68; 22.2.1988, c. 45-46; 3.6.1991, c. 1-51.
52. Bn. (I), 20.2.1956, 27.2.1956, 5.3.1959, 7.3.1961, 1.3.1963, 25.11.1963, 29.5.1964, 14.2.1966, 5.5.1969, 20.11.1969, 28.2.1977 *and* 17.1.1985.
53. R.S. Deb., 5.5.1969, c. 967-90.
54. *Ibid.*, 25.4.1975, c. 1-6.
55. *Ibid.*, 24.6.1980, c. 1-2; *and* 25.6.1980, c. 1-2.
56. *Ibid.*, 4.10.1982, c. 1-7.
57. *Ibid.*, 24.11.1992, c. 1-7.
58. Bn. (I), 15.7.2002.
59. *Ibid.*, 29.7.2002.
60. R.S. Deb., 26.7.2010, pp. 3-6.
61. *Ibid.*, 16.2.1956, c. 59.
62. *Ibid.*, 20.11.1967, c. 113-45.
63. *Ibid.*, 27.2.1956, c. 823-26.
64. *Ibid.*, 8.9.1960, c. 4103-04.
65. *Ibid.*, 5.1.1976, c. 21-22.
66. *Ibid.*, 23.6.1980, c. 1-2.
67. *Ibid.*, 31.7.1985, c. 143-44.
68. *Ibid.*, 3.12.1993, c. 1-2.
69. Bn. (I), 19.11.1997.
70. *Ibid.*, 20.2.2001.
71. *Ibid.*, 24.3.2000.
72. *Ibid.*, 19.11.2001.
73. *Ibid.*, 4.3.2002.
74. R.S. Deb., 9.8.1967, c. 2900-02.
75. *Ibid.*, 23.12.2004 *and* 25.2.2005.
76. *Ibid.*, 30.11.2012 *and* 3.12.2012.
77. C.S. Deb., 30.11.1953, c. 712-13.
78. *Ibid.*, 15.12.1953, c. 2302-03.
79. R.S. Deb., 26.11.1956, c. 586.
80. *Ibid.*, 30.11.1956, c. 1203.

- 
81. R.S. Deb., 21.5.1957, c. 871.
  82. *Ibid.*, 19.9.1958, c. 3898-99.
  83. *Ibid.*, 24.8.1959, c. 1533.
  84. *Ibid.*, 23.11.1959, c. 56-57.
  85. *Ibid.*, 8.11.1962, c. 185-86.
  86. *Ibid.*, 6.8.1962, c. 186-87.
  87. *Ibid.*, 3.12.1963, c. 1906-07.
  88. *Ibid.*, 12.2.1968, c. 32-34.
  89. *Ibid.*
  90. *Ibid.*, 23.11.1970, c. 105.
  91. *Ibid.*, 24.6.1971, c. 1.
  92. *Ibid.*, 13.12.1971, c. 1.
  93. *Ibid.*, 19.2.1973, c. 23.
  94. *Ibid.*, 23.7.1973, c. 4.
  95. *Ibid.*, 19.12.1973, c. 1.
  96. *Ibid.*, 4.10.1982, c. 4-5.
  97. *Ibid.*, 4.10.1982, c. 6-7.
  98. *Ibid.*, 18.2.1983, c. 19-26.
  99. *Ibid.*, 25.7.1983, c. 3.
  100. *Ibid.*, 12.5.1986, c. 139.
  101. *Ibid.*, 16.12.1988, c. 1-2.
  102. *Ibid.*, 27.3.1989, c. 1-2.
  103. *Ibid.*, 3.4.1989, c. 1-2.
  104. *Ibid.*, 3.6.1991, c. 51-52.
  105. *Ibid.*, 6.8.1992, c. 1-2.
  106. *Ibid.*, 27.2.1996.
  107. Bn. (I), 13.2.1995.
  108. *Ibid.*, 30.7.1996.
  109. *Ibid.*, 19.11.1997.
  110. *Ibid.*, 25.3.1998.
  111. *Ibid.*, 23.2.2000.
  112. *Ibid.*, 10.8.2000.
  113. *Ibid.*, 20.11.2000.
  114. *Ibid.*, 25.2.2008.
  115. *Ibid.*, 6.5.2008.
  116. *Ibid.*, 17.10.2008.
  117. *Ibid.*, 19.11.2009.
  118. *Ibid.*, 22.2.2010.
  119. *Ibid.*, 21.2.2011.
  120. *Ibid.*, 1.8.2011.
  121. *Ibid.*
  122. *Ibid.*, 22.11.2011.
  123. *Ibid.*, 8.12.2011.
  124. *Ibid.*, 8.8.2012.
  125. *Ibid.*
  126. *Ibid.*, 22.11.2012.
  127. *Ibid.*, 12.12.2012.
  128. *Ibid.*, 23.8.2013.
  129. *Ibid.*, 5.12.2013.
  130. R.S. Deb., 8.8.1956, c. 838-39.
  131. *Ibid.*, 23.1.1980, c. 21-22.
  132. *Ibid.*, 19.3.1982, c. 241-46.
  133. *Ibid.*, 21.8.1985, c. 1-2.
  134. *Ibid.*, 22.2.1988, c. 62-64.
  135. *Ibid.*, c. 66-67.
  136. *Ibid.*, 11.8.1986, c. 2-4.

137. R.S. Deb., 2.12.1993, c. 1-5.
138. *Ibid.*, 30.7.1996, c. 1-2
139. *Ibid.*, 10.8.2007.
140. *Ibid.*, 10.12.2008.
141. *Ibid.*, 12.2.2009.
142. *Ibid.*, 3.12.2012.
143. *Ibid.*, 16.12.2013.
144. C.S. Deb., 16.12.1952. c. 1958.
145. R.S. Deb., 25.8.1961, c. 1977-80.
146. *Ibid.*, 14.3.1955, c. 1795.
147. *Ibid.*, 22.2.1960 c. 1373-74.
148. *Ibid.*, 21.4.1964, c. 50-51.
149. *Ibid.*, 21.12.1967, c. 5088-91.
150. *Ibid.*, 9.11.1970, c. 105.
151. *Ibid.*, 11.11.1970, c. 95.
152. *Ibid.*, 13.3.1972, c. 24-25.
153. *Ibid.*, 31.7.1972, c. 154.
154. *Ibid.*, 31.8.1976, c. 1-2.
155. *Ibid.*, 23.1.1980, c. 19-20.
156. *Ibid.*, 9.6.1980, c. 4-6.
157. *Ibid.*, 18.2.1983, c. 19-26.
158. *Ibid.*, 23.2.1984, c. 24-25.
159. *Ibid.*, 16.12.1985, c. 1.
160. *Ibid.*, 4.11.1986, c. 1-2.
161. *Ibid.*, 18.8.1988, c. 1-2.
162. *Ibid.*, 25.7.1994, c. 1-2.
163. *Ibid.*, 27.11.1995, c. 1-6.
164. Bn. (I), 21.2.1997.
165. *Ibid.*, 22.2.1999.
166. *Ibid.*, 21.10.1999.
167. *Ibid.*, 24.7.2000.
168. *Ibid.*, 27.4.2007.
169. *Ibid.*, 25.2.2008.
170. *Ibid.*, 15.4.2010.
171. *Ibid.*, 7.3.2013.
172. *Ibid.*, 21.3.2013.
173. *Ibid.*, 22.4.2013.
174. *Ibid.*, 6.12.2013.
175. R.S. Deb., 6.5.1981, c. 1-12.
176. C.S. Deb., 6.3.1953, c. 1953-58.
177. R.S. Deb., 25.11.1963, c. 905-08.
178. *Ibid.*, 13.3.1985, c. 1-3.
179. *Ibid.*, 3.3.1986, c. 1-10.
180. *Ibid.*, 21.2.1989, c. 34.
181. *Ibid.*, 18.7.1989, c. 1-2.
182. *Ibid.*, 3.5.1993, c. 1-4.
183. Bn. (I), 20.11.2000.
184. *Ibid.*, 23.7.2001.
185. *Ibid.*, 6.12.2013.
186. F. Nos. 20/84-T, 20/85-T, 20/86-T, 20/88-T, 20/89-T, 20/93-T and 20/94-T.
187. R.S. Deb., 24.9.1965, c. 5609-10.
188. *Ibid.*, 10.8.1970, c. 174-83.
189. *Ibid.*, 16.12.1971, c. 124-26.
190. *Ibid.*, 5.9.1988, c. 1-41.
191. *Ibid.*, 25.11.1988, c. 1-2.
192. *Ibid.*, 17.3.1983, c. 1.

193. R.S. Deb., 24.12.1969, c. 5703-05.
194. *Ibid.*, 1.5.1970, c. 146.
195. *Ibid.*, 7.3.1968, c. 3646-58.
196. *Ibid.*, 29.4.1993, c. 221-22
197. *Ibid.*, 9.8.1967, c. 2902 (Silver jubilee); 9.8.1985, c. 182-83; 10.8.1987, c. 219-23; 9.8.1988, c. 1; 9.8.1989, c. 1; 8.8.1992 (50th Anniversary) c. 1-2; and 9.8.1994, c. 1.
198. *Ibid.*, 23.3.1990, c. 218-19; 23.3.1993, c. 295, 302-07; and 23.3.1995, c. 1-3.
199. *Ibid.*, 22.7.1969, c. 344-47.
200. *Ibid.*, 18.11.1969, c. 314-39.
201. *Ibid.*, 21.2.1986, c. 170-74.
202. *Ibid.*, 4.11.1986, c. 207-11.
203. *Ibid.*, 15.11.1988, c. 253-79.
204. *Ibid.*, 18.11.1969, c. 314-39.
205. *Ibid.*, 8.5.2012.
206. *Ibid.*, 5.9.2012.
207. *Ibid.*, 13.11.1973, c. 116-17.
208. *Ibid.*, 28.12.1968, c. 6035-37; and 21.7.1969, c. 133.
209. *Ibid.*, 17.3.1975, c. 1.
210. *Ibid.*, 23.7.1980, c. 133-40.
211. *Ibid.*, 30.7.1980, c. 1 and 164-65.
212. *Ibid.*, 20.8.1981, c. 160-73.
213. *Ibid.*, 23.4.1984, c. 141.
214. *Ibid.*, 10.5.1984, c. 1-2.
215. *Ibid.*, 29.3.1985, c. 330-32.
216. *Ibid.*, 16.12.1991, c. 197-98.
217. *Ibid.*, 4.5.1994, c. 1-2.
218. *Ibid.*, 10.5.1994, c. 405-22.
219. *Ibid.*, 28.11.1995, c. 360.
220. *Ibid.*, 21.10.1999, pp. 10-18.
221. *Ibid.*, 28.2.2001, pp. 2-4.
222. Bn. (I), 22.10.2008.
223. *Ibid.*, 24.2.2009.
224. *Ibid.*, 24.4.2012.
225. *Ibid.*, 13.8.2012.
226. *Ibid.*, 27.8.2012.
227. *Ibid.*, 26.2.2013.
228. *Ibid.*, 22.4.2013.
229. *Ibid.*, 5.8.2013.
230. *Ibid.*
231. *Ibid.*
232. *Ibid.*
233. *Ibid.*
234. *Ibid.*, 6.8.2013.
235. *Ibid.*, 26.8.2013.
236. *Ibid.*, 9.12.2013.
237. *Ibid.*, 13.12.2013.
238. *Ibid.*, 5.2.2014.
239. C.S. Deb., 16.5.1952, c. 32-34.
240. R.S. Deb., 13.5.1957, c. 2-7.
241. *Ibid.*, 11.5.1962, c. 2937-48.
242. *Ibid.*, 15.6.1962, c. 1-17.
243. *Ibid.*, 11.4.1967, c. 3248-65.
244. *Ibid.*, 22.5.1967, c. 107-29.
245. *Ibid.*, 22.7.1969, c. 344-45; and 21.7.1969, c. 149-52.
246. *Ibid.*, 17.11.1969, c. 106-07.
247. *Ibid.*, 31.8.1974, c. 1-23.

- 
248. R.S. Deb., 24.1.1980, c. 3-16.  
249. *Ibid.*, 24.8.1984, c. 212-35.  
250. *Ibid.*, 18.1.1985, c. 93-106.  
251. *Ibid.*, 6.11.1987, c. 4-24.  
252. *Ibid.*, 25.11.1992, c. 1-25.  
253. *Ibid.*, 26.8.1997, c. 2-24.  
254. Bn. (I), 20.11.2002.  
255. R.S. Deb., 13.8.2007.  
256. *Ibid.*, 13.8.2012.  
257. *Ibid.*, 26.2.1973, c. 1; and 26.2.1974, c. 1.  
258. *Ibid.*, 10.9.1974, c. 1.  
259. *Ibid.*, 17.12.1980, c. 1-2; and 17.12.1981, c. 1-4.  
260. *Ibid.*, 4.12.1985, c. 1-6; and 4.12.1986, c. 1-2.  
261. *Ibid.*, 19.8.1988, c. 1-3; 17.8.1990, c. 1; and 20.8.1990, c. 1.  
262. *Ibid.*, 12.3.1973, c. 143.  
263. *Ibid.*, 20.8.1985, c. 310; and 20.8.1987, c. 1.  
264. GPC mts., 2.5.1977, BAC mts., 13.6.1977 and R.S. Deb., 22.6.1977, c. 156-69.  
265. R.S. Deb., 12.8.1993, c. 231-38.  
266. *Ibid.*, 29.4.1970, c. 105.  
267. *Ibid.*, 14.11.1977, c. 102-03.  
268. *Ibid.*, 28.4.1981, c. 186-202.  
269. *Ibid.*, 31.7.1987, c. 297-99.  
270. *Ibid.*, 21.2.1994, c. 1-4.  
271. *Ibid.*, 25.8.1983, c. 176-80.  
272. *Ibid.*, 25.11.2011.  
273. *Ibid.*, 18.11.1963, c. 84-86.  
274. *Ibid.*, 2.4.1976, c. 75-83.  
275. *Ibid.*, 4.5.1981, c. 205-17.  
276. *Ibid.*, 26.7.1993, c. 153-78.  
277. *Ibid.*, 19.11.1997, c. 1.  
278. Bn. (I), 18.11.2002.  
279. R.S. Deb., 23.7.2001, p. 5.  
280. Bn. (I), 18.11.2002.  
281. *Ibid.*, 15.11.2007.  
282. R.S. Deb., 7.9.2012, pp. 1-2.  
283. Bn. (I), 22.11.2012.  
284. R.S. Deb., 22.4.2013, pp. 2-3.  
285. *Ibid.*, 8.12.1981, c. 17.  
286. *Ibid.*, 10.12.1958, c. 1695-96; 10.12.1969, c. 3333-34; 10.12.1973, c. 1-2; and 7.12.1988, c. 1-2.  
287. *Ibid.*, 14.5.1985, c. 1-2.  
288. *Ibid.*, 18.11.1985, c. 348.  
289. *Ibid.*, 9.12.1987, c. 251-52.  
290. *Ibid.*, 4.12.1971, c. 29-30.  
291. *Ibid.*, 6.12.1971, c. 18-19.  
292. *Ibid.*, 2.12.1985, c. 262.  
293. *Ibid.*, 6.8.1985, c. 141; 6.8.1987, c. 207-08; 9.8.1989, c. 1; 6.8.1991, c. 1; 6.8.1992, c. 1; 9.8.1994, c. 1-2; and 9.8.1995, c. 1.  
294. *Ibid.*, 21.3.1990, c. 180-81.  
295. *Ibid.*, 9.12.1992, c. 216.  
296. Bn. (I), 16.12.1996.  
297. *Ibid.*, 10.12.1998., 10.12.2012, 10.12.2013.  
298. *Ibid.*, 29.11.1999.  
299. *Ibid.*, 8.3.2000.  
300. *Ibid.*, 25.10.1999 and 26.7.2000.  
301. *Ibid.*, 13.5.2002.

302. Bn. (I), 26.11.2010 and 26.11.2012.
303. *Ibid.*, 19.12.2011.
304. *Ibid.*, 22.3.2012 and 22.3.2013.
305. *Ibid.*, 24.4.2012 and 23.4.2013.
306. *Ibid.*, 22.4.2013.
307. R.S. Deb., 3.9.1956, c. 3100; 11.2.1958, c. 32; 8.3.1961, c. 2126; 20.4.1961, c. 215; 24.4.1962, c. 427; and 24.4.1989, c. 313.
308. *Ibid.*, 12.9.1963, c. 3836.
309. *Ibid.*, 27.2.1958, c. 1705.
310. *Ibid.*, 24.8.1959, c. 1541.
311. *Ibid.*, 25.2.1960, c. 1863-64.
312. *Ibid.*, 8.12.1981, c. 171-76.
313. *Ibid.*, 1.12.1986, c. 1-12.
314. *Ibid.*, 20.8.1987, c. 264-77.
315. *Ibid.*, 3.9.1963, c. 2594.
316. *Ibid.*, 22.8.1988, c. 2.
317. *Ibid.*, 16.12.1988, c. 2
318. Bn. (I), 15.4.2002.
319. R.S. Deb., 16.11.1970, c. 116-18.
320. C.S. Deb., 20.5.1952, c. 177-78; R.S. Deb., 29.9.1954, c. 3901; 26.11.1956, c. 625; 7.8.1986, c. 269; 21.8.1995 (Question Hour was suspended to discuss the situation arising out of the accident between Kalindi Express and Purushottam Express).
321. R.S. Deb., 12.9.1963, c. 3836; 22.11.1963, c. 993-94; 14.11.1977, c. 102-03; and 23.7.1985, c. 3-4.
322. *Ibid.*, 12.12.1967, c. 3567.
323. *Ibid.*, 24.3.1970, c. 121-37.
324. *Ibid.*, 20.11.1991, c. 3-5.
325. *Ibid.*, 2.12.1993, c. 6.
326. *Ibid.*, 27.5.1957, c. 1739-41.
327. *Ibid.*, 21.2.1983, c. 2.
328. *Ibid.*, 18.1.1985, c. 192.
329. *Ibid.*, 7.6.1967, c. 2665; and 9.6.1967, c. 3222.
330. C.S. Deb., 15.2.1954, c. 20.
331. R.S. Deb., 21.4.1986, c. 2-3.
332. *Ibid.*, 21.11.1977, c. 188.
333. *Ibid.*, 20.8.1979, c. 1.
334. *Ibid.*, 30.8.1978, c. 76.
335. *Ibid.*, 24.2.1984, c. 1.
336. *Ibid.*, 15.3.1993, c. 1-5.
337. Bn. (I), 24.2.1997.
338. *Ibid.*, 21.4.1997.
339. *Ibid.*, 12.5.1997.
340. *Ibid.*, 25.3.1998.
341. *Ibid.*, 30.11.1998.
342. *Ibid.*, 8.3.1999.
343. *Ibid.*, 19.4.1999.
344. *Ibid.*, 29.11.1999.
345. *Ibid.*, 25.10.1999.
346. *Ibid.*, 11.8.2000.
347. *Ibid.*, 19.2.2001.
348. *Ibid.*, 23.7.2001.
349. *Ibid.*, 19.11.2001.
350. *Ibid.*
351. *Ibid.*, 15.7.2002.
352. *Ibid.*, 7.8.2002.
353. *Ibid.*, 9.8.2002.

354. Bn. (I), 18.11.2002.
355. *Ibid.*, 25.11.2002.
356. *Ibid.*, 21.7.2003.
357. *Ibid.*, 13.8.2003.
358. *Ibid.*, 2.12.2003.
359. *Ibid.*, 20.1.2004.
360. *Ibid.*, 23.2.2007.
361. *Ibid.*, 26.4.2007.
362. *Ibid.*
363. *Ibid.*, 29.8.2007
364. *Ibid.*, 10.9.2007.
365. *Ibid.*, 22.2.2010.
366. *Ibid.*, 9.3.2010.
367. *Ibid.*, 26.7.2010.
368. *Ibid.*
369. *Ibid.*
370. *Ibid.*
371. *Ibid.*, 9.8.2010.
372. *Ibid.*, 9.11.2010.
373. *Ibid.*, 18.11.2010.
374. *Ibid.*, 26.11.2010.
375. *Ibid.*, 21.2.2011.
376. *Ibid.*, 4.3.2011.
377. *Ibid.*, 14.3.2011.
378. R.S. Deb., 1.8.2011.
379. *Ibid.*
380. *Ibid.*
381. *Ibid.*
382. *Ibid.*
383. *Ibid.*, 22.11.2011.
384. *Ibid.*
385. *Ibid.*
386. *Ibid.*, 23.11.2013.
387. *Ibid.*, 12.12.2011.
388. *Ibid.*, 20.12.2011.
389. *Ibid.*, 12.3.2012.
390. *Ibid.*
391. *Ibid.*, 28.3.2012.
392. *Ibid.*, 2.5.2012.
393. *Ibid.*, 16.5.2012.
394. *Ibid.*, 8.8.2012.
395. *Ibid.*
396. *Ibid.*
397. *Ibid.*
398. *Ibid.*
399. *Ibid.*
400. *Ibid.*, 14.8.2012.
401. *Ibid.*, 6.9.2012.
402. *Ibid.*, 22.11.2012.
403. *Ibid.*
404. *Ibid.*
405. *Ibid.*, 4.12.2012.
406. *Ibid.*, 18.12.2012.
407. *Ibid.*, 21.2.2013.
408. *Ibid.*, 22.2.2013.
409. *Ibid.*, 1.3.2013.

- 
410. R.S. Deb., 6.3.2013.  
411. *Ibid.*, 15.3.2013.  
412. *Ibid.*, 20.3.2013.  
413. *Ibid.*, 22.4.2013.  
414. *Ibid.*  
415. *Ibid.*, 17.10.2008.  
416. *Ibid.*, 2.5.2013.  
417. *Ibid.*, 5.8.2013.  
418. *Ibid.*  
419. *Ibid.*  
420. *Ibid.*  
421. *Ibid.*  
422. *Ibid.*  
423. *Ibid.*, 19.8.2013.  
424. *Ibid.*  
425. *Ibid.*, 5.12.2013.  
426. *Ibid.*  
427. *Ibid.*, 9.12.2013.  
428. *Ibid.*, 5.2.2014.  
429. *Ibid.*  
430. *Ibid.*  
431. *Ibid.*  
432. *Ibid.*  
433. *Ibid.*, 5.12.2013.  
434. *Ibid.*  
435. *Ibid.*  
436. *Ibid.*, 16.8.1955, c. 51-54.  
437. *Ibid.*, 4.12.1981, c. 276; and 7.12.1981, c. 183-84.  
438. Bn. (I), 26.8.1996.  
439. *Ibid.*, 14.12.2001.  
440. R.S. Deb., 18.11.1985, c. 347-48.  
441. *Ibid.*, 24.12.1969, c. 5703-05.  
442. *Ibid.*, 30.1.1985, c. 232-33.  
443. *Ibid.*, 29.8.1985, c. 1-4.  
444. *Ibid.*, 24.4.1986, c. 223-24.  
445. *Ibid.*, 8.8.1986, c. 218-20.  
446. *Ibid.*, 1.12.1986, c. 1-12.  
447. *Ibid.*, 11.8.1988, c. 124-25.  
448. *Ibid.*, 12.10.1989, c. 317-18.  
449. *Ibid.*, 14.3.1990, c. 327-28.  
450. *Ibid.*, 5.10.1990, c. 178.  
451. *Ibid.*, 11.1.1991, c. 105-06.  
452. *Ibid.*, 22.2.1991, c. 294-96.  
453. *Ibid.*, 27.11.1991, c. 299-300.  
454. *Ibid.*, 16.12.1991, c. 197.  
455. *Ibid.*, 8.8.1992 c. 1-2.  
456. *Ibid.*, 22.2.1994, c. 281-83.  
457. *Ibid.*, 10.5.1994, c. 405-22.  
458. *Ibid.*, 22.12.1994, c. 260-61.  
459. Bn. (I), 17.5.2002.  
460. *Ibid.*, 9.4.2003.  
461. R.S. Deb., 11.12.2008, pp. 345-65.  
462. *Ibid.*, 13.5.2012, p. 85.  
463. *Ibid.*, 15.3.2013, p. 352 and 14.8.2013, p. 1.  
464. *Ibid.*, 31.3.1971, c. 123-24.  
465. *Ibid.*, 20.8.1981, c. 160-73.

466. R.S. Deb., 24.3.1983, c. 368-70.
467. *Ibid.*, 22.2.1983, c. 392-94.
468. *Ibid.*, 31.7.1987, c. 297-99.
469. *Ibid.*, 16.12.1992, c. 1048-50.
470. Bn. (I), 2.3.2001.
471. *Ibid.*, 18.3.2002.
472. R.S. Deb., 14.3.1990, c. 365; and 15.3.1990, c. 274-75.
473. *Ibid.*, 20.8.1985, c. 359-62.
474. Art. 83(1).
475. R.S. Deb., 30.3.1962, c. 1982.
476. Bn. (I), 23.12.1994, 22.12.1995, 30.5.1996, 1.12.1997, 23.4.1999, 10.9.2007, 6.5.2008 and 29.12.2011.
477. *Ibid.*, 12.8.2002.
478. *Ibid.*, 7.9.1990 and 5.10.1990.
479. *Ibid.*, 23.12.2003 and 5.2.2004.
480. F. No. RS. 21/2009-T.
481. F. No. RS. 21/2011-T.

## CHAPTER–17

### Questions

#### Time for questions

Until the 232<sup>nd</sup> Session, the Rule stated that unless the Chairman otherwise directs, the first hour of every sitting is available for the asking and answering of questions.<sup>1</sup> The House commenced its sitting at 11.00 a.m. and generally proceeded immediately to question time until 12.00 noon. However, with the amendments to the Rules of Procedure and Conduct of Business in the Council of States in November 2014, the question time was shifted from the 233<sup>rd</sup> Session onwards from 12.00 noon to 1.00 pm.<sup>2</sup> This hour is popularly and commonly known as Question Hour. The Rules of Procedure and Conduct of Business in the Council of States now states that unless the Chairman otherwise directs, the Question Hour shall be from 12.00 noon to 1.00 p.m.<sup>3</sup>

There is an instance when the sitting of the House commenced at 3.00 p.m. as a function was held to commemorate the 50<sup>th</sup> Anniversary of the first sitting of the Constituent Assembly at 10.00 a.m. on 9 December 1996, in the Central Hall, Parliament House.<sup>4</sup> The Question Hour, accordingly, continued upto 4.00 p.m.

In another instance the Question Hour was shifted, on the direction of the Chairman, from 11.00 a.m.-12.00 noon to 2.00 p.m.-3.00 p.m. from Monday to Thursday and 2.30 p.m.-3.30 p.m. on Friday during 7 March 2011 to 16 March 2011.<sup>5</sup>

The Rajya Sabha met for the first time on 13 May 1952, and till 26 May 1952, there was no Question Hour in the House. On 16 May 1952, which was the second sitting of the House, the Chairman made the following announcement:

...After a good deal of discussion, I decided that we should adopt the procedure of the House of Lords. Questions on two days a week, three starred questions a day—that is the procedure of the House of Lords...Three questions will be answered orally and those questions will be selected in the order of receipt.<sup>6</sup>

On 19 May 1952, a member raised the following question of privilege arising out of the announcement made by the Chairman:

It appears that under powers conferred on him under article 118(2) of the Constitution, the Chairman has modified the practice obtaining in the old Council of State relating to asking of questions by members to the disadvantage of the rights of such members.

The Chairman observed that it was not a question of privilege. It would however, be considered by the Committee on Rules on its constitution.<sup>7</sup> What the member was referring to was that under the Standing Orders of the old Council of State the first hour of every meeting was available for questions<sup>8</sup> and not the two days of a week.

On 20 May 1952, immediately after the Motion of Thanks on President's Address was moved, the Chairman informed the House:

...Next Tuesday and Wednesday (*i.e.* May 27 and 28), you will be allowed to have questions raised here. You must give notice of them today or tomorrow. If you are able to put your questions today or tomorrow they may be answered on Tuesday or Wednesday next week. The first half hour will be devoted to questions.<sup>9</sup>

This was followed by a Bulletin informing members about the allotment of days for answering questions on Tuesday, 27 May and Wednesday, 28 May 1952.

Accordingly, there were 3 starred questions and 12 unstarred questions listed for 27 May 1952, and 3 starred questions and 45 unstarred questions for the next day. The first question was asked by Shri S.V. Krishnamoorthy Rao who later became the first Deputy Chairman of the Rajya Sabha on 31 May 1952.

On 14 July 1952, the Chairman announced that on the recommendation of the Committee on Rules,<sup>10</sup> he had made certain amendments in the provisions relating to questions. Under the amended rules, the first hour of the sitting on every Monday, Tuesday, Wednesday and Thursday was made available for the asking and answering of questions. If the House did not sit on any of those days, then the following Friday was also to be made available. Each member was entitled to put three starred questions.<sup>11</sup> These amended provisions were given effect to from 21 July 1952.<sup>12</sup> In 1956, a demand was made that there should be Question Hour on Fridays also. The Chairman pointed out that it was a decision of the House that there would be questions only for four days in a week in the Rajya Sabha.<sup>13</sup> Question Hour for four days a week, therefore, continued until September 1964.

The Committee set up to frame Draft Rules of Procedure under article 118 of the Constitution in its report submitted on 29 November 1963, proposed that the first hour of every sitting should be made available for questions. Accordingly, all the five sittings in a week were made available for the asking and answering of questions in the Rajya Sabha regularly from the 49<sup>th</sup> Session commencing on 9 September 1964.

### **Non-allotment of time for questions**

As the opening words “Unless the Chairman otherwise directs” in rule 38 make it clear, although the first hour of every sitting is available for questions and answers, the Chairman has the power to dispense with Question Hour or not allot a day or days for questions. The House may also decide to suspend Question Hour upon a motion or otherwise. There have been occasions when Question Hour was dispensed with for devoting more time to other business or Question Hour was not fixed during the whole session or some sittings during a session due to some special reasons.

On 15 March 1954, the Deputy Chairman announced that “in order to give more time to the consideration of the motion to refer the Hindu Marriage and Divorce Bill, 1952, to a Joint Committee,” there would be no Question Hour on 16 March 1954. Again on 18 March 1954, Question Hour was dispensed with for consideration and passing of the Press (Objectionable Matter) Amendment Bill, 1953.<sup>14</sup>

During the 33<sup>rd</sup> (1961), 93<sup>rd</sup> (1975), 98<sup>th</sup> (1976) and 99<sup>th</sup> (1977) Sessions there was no Question Hour as these sessions were summoned for special purposes, namely, Orissa Budget, approval of Proclamation of Emergency, Constitution (Forty-fourth Amendment) Bill, 1976 and approval of President’s Rule in Tamil Nadu and Nagaland, respectively.<sup>15</sup>

On 21 July 1975 (93<sup>rd</sup> Session), the Minister of State in the Department of Parliamentary Affairs moved the following motion:

That this House resolves that the current session of the Rajya Sabha being in the nature of an emergent session to transact certain urgent and important Government business, only Government business be transacted during the session and no other business whatsoever...be brought before or transacted in the House during the session and all relevant rules on the subject do hereby stand suspended to that extent.

After a lengthy debate including rejection of an amendment which sought saving of Question Hour, the motion was adopted. Before the motion was moved, some members sought to know under what provision of rule or direction, Question Hour was suspended till the motion was passed. The Chairman ruled:

...regarding allowing the Question Hour or not allowing the Question Hour, it is a point to be decided by me...rule 38 is very clear on this point...on my own considering the importance of the present situation, I have decided not to have the Question Hour. It is within the authority of the Chairman. He has used it independently of the Government or anybody else. Nobody can question it.<sup>16</sup>

A similar motion was adopted on 3 November 1976 (98<sup>th</sup> Session) and Question Hour was suspended.<sup>17</sup> During the 41<sup>st</sup> Session (1962) the Minister of Parliamentary Affairs held a meeting with leaders and representatives of various groups in the Opposition as also some other Members of Parliament and announced in the House that it was the unanimous opinion of those present at the meeting that Question Hour might be dispensed with w.e.f. 26 November 1962.<sup>18</sup>

During the 194<sup>th</sup> Session, the Chairman announced that in order to enable the House to discuss the situation arising out of the terrorist attack on Parliament House on 13 December 2001, the Question Hour may be dispensed with and, accordingly, the Question Hour was dispensed with on the 18 and 19 December 2001.<sup>19</sup>

Due to short or inadequate notice, on many occasions no Question Hour was fixed for the first few days of the commencement of the 75<sup>th</sup>, 100<sup>th</sup>, 101<sup>st</sup> and 112<sup>th</sup> Sessions.<sup>20</sup>

During the 78<sup>th</sup> Session, the House decided that with effect from 6 December 1971, there would be no Question Hour during the remaining part of the session (due to outbreak of war with Pakistan).<sup>21</sup>

During the 201<sup>st</sup> Session, there was no Question Hour as summons for the session was issued at a short notice.

During the 214<sup>th</sup> Session, the Chairman announced that in order to discuss the terrorist attack in Mumbai the Question Hour may be dispensed with and accordingly, the Question Hour was dispensed with on 11 December 2008.<sup>22</sup>

During the 216<sup>th</sup> Session, there was no Question Hour as it was a short session called for President's Address to both Houses of Parliament assembled together after constitution of 15<sup>th</sup> Lok Sabha.<sup>23</sup>

During the 219<sup>th</sup> Session, the Chairman announced that the Question Hour has been dispensed with to take up Short Duration Discussion on the price rise situation and accordingly, the Question Hour was dispensed with on 25 February 2010.<sup>24</sup>

During the 226<sup>th</sup> Session, the Chairman announced that on the request of several members to suspend the Question Hour, to discuss the

attacks on migrants from North-East Region of the country, the Question Hour is suspended and accordingly, the Question Hour was dispensed with on 17 August 2012.<sup>25</sup>

During the 227<sup>th</sup> Session, the Chairman announced that the Question Hour has been dispensed with to take up discussion on the Motion regarding FDI in Multi-brand Retail Sector and accordingly, the Question Hour was dispensed with on 7 December 2012.<sup>26</sup>

### **Question Hour during extension of session**

When the session is extended for a day or a few days beyond the originally scheduled date of its termination and such extension is announced not very much in advance, no Question Hour is fixed for the extended days of the sittings.<sup>27</sup> The Chair accordingly, announces that there would be no Question Hour while informing the House about extension of the session.

After the Chairman announced that the meetings of the House would be continued on 1, 2 and 4 August 1952, a member inquired whether Question Hour was going to be provided on the extended days of the session. The Chairman answered in the negative because of the heavy business.<sup>28</sup> After a few days when the matter came up, the Chairman observed, “We decided not to ask any questions hereafter, till the rest of the session.”<sup>29</sup>

The 218<sup>th</sup> Session was extended for one day *i.e.* 22 December 2009 and no Question Hour was fixed on that day.<sup>30</sup>

The 220<sup>th</sup> Session was extended by two days, *i.e.*, up to 31 August 2010 and no Question Hour was fixed on those days.<sup>31</sup>

The first part of the 222<sup>nd</sup> Session was scheduled from 21 February upto 16 March 2011 and the second part from 4 April 2011 up to 21 April 2011. However, on the recommendations of the Business Advisory Committee, the first part of the session was extended up to 25 March 2011. There was no Question Hour during the extended period. The second part of the session scheduled from 4 to 21 April 2011 was cancelled.<sup>32</sup>

The 224<sup>th</sup> Session, originally scheduled to conclude on 21 December 2011 was extended initially by one day, *i.e.*, up to 22 December 2011 and subsequently by three days, *i.e.* 27 to 29 December 2011, on the recommendations of the Business Advisory Committee. There was no Question Hour during the extended period.<sup>33</sup>

The 229<sup>th</sup> Session, originally scheduled to conclude on 30 August 2013 was extended initially by five days, *i.e.* up to 6 September 2013 and

subsequently by one day, *i.e.* 7 September 2013, on the recommendations of the Business Advisory Committee. There was no Question Hour during the extended period.<sup>34</sup>

If the decision to extend the session is taken sufficiently in advance which would give members adequate time for giving notices of questions during the extended period, the Question Hour is fixed on those days also.<sup>35</sup>

The 180<sup>th</sup> Session which was originally scheduled from 20 February to 9 May 1997 was extended upto 16 May 1997, and sittings from 30 April to 16 May were treated as the third phase of that session. However, Question Hour started from 5 May 1997. There was no Question Hour during the first three days, *i.e.*, 30 April 1997, 1 May 1997 (May day) and 2 May 1997.<sup>36</sup>

The 214<sup>th</sup> Session commenced on 17 October 2008 and was scheduled to adjourn on 21 November 2008. However, the House was adjourned on 24 October 2008 to meet again on 10 December 2008. The second part of the session continued up to 23 December 2008. During the second part of the session, the Question Hour was held.<sup>37</sup>

The 230<sup>th</sup> Session commenced on 5 December 2013 and was scheduled to adjourn on 20 December 2013. However, the House was adjourned *sine-die* on 18 December 2013. During the second part of the session which commenced on 5 February 2014 and adjourned *sine-die* on 21 February 2014, the Question Hour was held.<sup>38</sup>

However, there had been occasions when the decision to extend the session was taken sufficiently in advance but no Question Hour was fixed during the extended period.

By an announcement made on 27 June 1980, the 114<sup>th</sup> Session was extended upto 9 July 1980. There was no mention of Question Hour during the extended days of the session and no Question Hour was fixed on those days.<sup>39</sup>

The Business Advisory Committee recommended that the 160<sup>th</sup> Session be extended and the House should sit on 16, 17 and 18 September 1991. The recommendation was announced on 5 September 1991. No Question Hour was, however, fixed. The matter was raised in the House and the Deputy Chairman promised to convey the feeling to the Chairman.

It was again raised on the 17 September 1991.<sup>40</sup>

The 200<sup>th</sup> Session was extended by the Government for the passage of vote-on-account in view of the approaching elections and there was no Question Hour during that period.

When Question Hour is allotted for the additional days of the session, a chart showing the grouping of Ministries and Departments indicating the dates of questions and last dates for receipt of notices for those groups is issued for information of members and the same is also notified in the Bulletin.<sup>41</sup>

### **Transfer of Question Hour due to cancellation of a sitting**

Sometimes it had happened that sittings originally fixed on some days were cancelled on account of shifting of holidays of *Id*, *Muharram*, *Holi*, *Id-e-Milad/Milad-un-Nabi*, etc. and business including questions slated for those days was carried over to the new sitting day fixed *in lieu* of the cancelled sitting including Saturday.

Sitting of the House fixed for 5 December 1952, was cancelled and questions listed for that day were taken up on Saturday, 6 December 1952.<sup>42</sup>

Holiday on account of *Id-ul-zuha* was changed from 27 February 1969 to 28 February 1969. Questions, etc., put down for 28 February 1969, were shifted to previous day when the sitting was held.<sup>43</sup>

Holiday on account of *Holi* was changed from 5 March to 4 March 1969. Consequently, the business including the questions set down for 4 March was taken up on 5 March 1969.<sup>44</sup>

Holiday on account of *Muharram* was changed from 12 December to 11 December 1978. Consequently, the business including the questions set down for the 11 December 1978, was taken up on 12 December 1978.<sup>45</sup>

Holiday on account of *Id-e-Milad/Milad-un-Nabi* was changed from 7 July to 8 July 1998. Consequently, the business including the questions set down for Wednesday, the 8 July 1998, was taken up on Tuesday, the 7 July 1998.<sup>46</sup>

### **Shifting of Question Hour**

On 11 December 2012, when the House assembled for the Question Hour, several members interrupted the proceedings by displaying papers. Commenting on the frequent practice of the members disrupting the Question Hour, the Chairman observed:

A situation has arisen in which the Chair has to watch helplessly disruption of the Question Hour very frequently. I, therefore, propose to call a meeting of the Rules Committee and put before the members

of the Committee two options. One, that the Question Hour be moved to another part of the day. Two, since members don't seem to attach very great importance to the questions being answered, the Question Hour be dispensed with altogether.<sup>47</sup>

### **Notice of breach of privilege by some members regarding infringement of their rights as members of the House**

There was an instance in Rajya Sabha in February 2008, when due to disturbances in the House, some members were unable to raise questions during the Question Hour. Shri Santosh Bagrodia and some members gave joint notice of breach of privilege against some members who did not allow the House to run. As a result thereof they could not have the benefit of getting the replies of their questions from the Government which caused infringements of their rights as members of the House which was referred to the Committee of Privileges for examination, investigation, and report. The Committee of Privileges presented its Fifty fourth Report on the 7 July 2009. This has been dealt in Chapter-8 on Privileges.

### **Suspension of Question Hour**

Technically, there is no specific provision in the Rules of Procedure of the Rajya Sabha for suspension of Question Hour. However, in practice whenever a member desires to move a motion for suspension of rule 38 relating to questions he has to take recourse to rule 267 relating to suspension of a rule and he can move such a motion only with the consent of the Chairman.

There have been instances when the Chairman has withheld the consent to the moving of a motion for suspension of Question Hour or otherwise has not agreed to suspend Question Hour as requested by members.<sup>48</sup>

For the first time in the Rajya Sabha a request was made that Question Hour should be suspended to discuss the situation in West Bengal arising out of the dismissal of the Government there. The Chairman did not allow as, he said, there was no motion before him for the purpose.<sup>49</sup>

On an occasion, a member who had given notice to suspend Question Hour was permitted to submit why Chair should grant consent and eventually the Question Hour was lost.<sup>50</sup>

On another occasion, a notice was received for suspension of Question Hour on the issue of leakage of Liberhan Commission report. The Chairman allowed a member to speak on the admissibility of the

notice for suspension of Question Hour as the Business Advisory Committee had already identified the issue of “speedy disposal of Babri Masjid case and tabling of Liberhan Commission Report” for discussion. Some members spoke on the issue to which the Minister of State for Parliamentary Affairs responded. In the process the entire Question Hour was over and, therefore, questions could not be taken up for oral answers.<sup>51</sup>

On 17 December 2009, the Leader of Opposition requested the Chairman to suspend the Question Hour. The Chairman asked him if he wanted to say something on the matter. When he gave an affirmative reply, the Chairman permitted him to do so. Two other members also expressed their desire to speak and their request to do so was acceded to by the Chairman. The Chairman then stated that the Government would respond to it at an appropriate time and thereafter the Question Hour continued.<sup>52</sup>

Some of the issues on which request for suspension of Question Hour was sought but was not agreed to, were:

*Kutch Tribunal Award:* The Chairman informed that the Prime Minister would be making a statement on the issue and there would be discussion thereafter.<sup>53</sup>

*Teachers' strike in U.P.:* The Chairman ruled that he was not prepared to suspend the question time and questions must go on.<sup>54</sup>

*Lathi-charge on students and teachers in Allahabad jail:* The Chairman informed that a calling attention on the subject had been admitted and would come up the next day.<sup>55</sup>

Some members had given notices for the suspension of Question Hour to take up a breach of privilege notice against the Prime Minister for allegedly making a false and misleading statement deliberately in the Rajya Sabha about the existence of middlemen and payment of kickbacks for the purchase of Bofors Guns. After hearing the members, the Deputy Chairman ruled that Question Hour could not be suspended for the purpose.<sup>56</sup>

*Escape of alleged killers of Shri Rajiv Gandhi:* The Chairman observed that Question Hour had precedence over everything else. If it was desired not to have Question Hour, a motion should be moved and he had no objection if the House so wished.<sup>57</sup>

*Ayodhya issue:* When some members sought to move a motion to suspend Question Hour, the Leader of the House requested them not to press it in view of previous day's discussion on the issue.

The Chairman made the following observations, after which Question Hour proceeded:

I would like to submit, suspension of the Question Hour is a very serious matter affecting the interest of the House as a whole, every member of the House, especially the back benchers of this House. As you know, a decision has been taken at the Conference of the Presiding Officers that the Question Hour will never be suspended. Therefore, I would like to appeal to you, this matter can be discussed after forty-five minutes, as suggested by the hon'ble Home Minister. Now we should go ahead with the Question Hour. I do not think any emergency will be there in the next forty minutes. It is in the interest of the House, as a whole to go ahead with the Question Hour.<sup>58</sup>

*Coal scam:* When a Member sought suspension of Question Hour, the Chairman observed that the Question Hour cannot be suspended.<sup>59</sup>

There have also been instances when motions to suspend Question Hour were put to vote and negated.<sup>60</sup>

There have been instances when consent to move motions for suspension of Question Hour was given and they were adopted or there was consensus for the same and Question Hour was suspended or dispensed with to discuss such urgent matters as developments in Andhra Pradesh,<sup>61</sup> Kashmir situation,<sup>62</sup> Meham incident (this was discussed on two occasions and on the first occasion the motion to suspend Question Hour was adopted by a division),<sup>63</sup> status of Congress (I) as opposition party,<sup>64</sup> Gulf War situation,<sup>65</sup> Ayodhya issue (the motion to suspend Question Hour was adopted by a division),<sup>66</sup> resolution condemning Ayodhya incident,<sup>67</sup> destruction of Charare-Sharief in Kashmir,<sup>68</sup> railway accident involving Purushottam Express and Kalindi Express trains,<sup>69</sup> situation arising out of terrorist attack on Parliament,<sup>70</sup> issue relating to corruption at high places in the context of revelations in relation to an Ex-Minister.<sup>71</sup>

On an occasion, consent to move the motion for suspension of Question Hour to discuss firing on farmers in Andhra Pradesh was given but the member giving notice did not move it and Question Hour proceeded.<sup>72</sup>

On another occasion, a member was allowed by the Chairman to move a motion for suspension of Question Hour. The motion could not be voted upon by 12.00 noon. When insisted upon by the member for voting, the Chair ruled that since the Question Hour is over at 12.00 noon the motion has become infructuous.<sup>73</sup>

On another occasion, the Chairman accepted a notice given by the Leader of Opposition to suspend the Question Hour to allow the House to debate the Lokpal and Lokayuktas Bill, 2011.<sup>74</sup>

On a number of occasions, Question Hour was not dispensed with formally or otherwise but questions could not be taken up for oral answers owing to disorder, uproarious scenes or members making submissions throughout Question Hour about certain matters or pleading with the Chair for its suspension or the House had to be adjourned frequently. Some of the issues due to which no questions could be taken up for oral answers were:

New nomenclature of Ministers/Ministries;<sup>75</sup> arrest and detention of a lady member;<sup>76</sup> water crisis in Delhi;<sup>77</sup> irregularities in granting income tax exemptions to certain Trusts in Maharashtra;<sup>78</sup> J & K situation;<sup>79</sup> postponement of elections to Bihar Legislative Assembly;<sup>80</sup> rescheduling of Bihar Legislative Assembly elections;<sup>81</sup> atrocities on women in Gaya by CRPF;<sup>82</sup> imposition of President's Rule in Bihar;<sup>83</sup> Vohra Committee Report on nexus between criminals and politicians;<sup>84</sup> Telecommunication Policy (175<sup>th</sup> Session); Hawala Transactions (176<sup>th</sup> Session), Tehelka.com revelation (192<sup>nd</sup> Session), CAG Report on defence procurement (194<sup>th</sup> session); Demand for JPC on 2G spectrum allocation (221<sup>st</sup> Session); CAG report on Allocation of Coal and Augmentaion of Production (226<sup>th</sup> Session); FDI in Multi-brand retail and Constitution (Amendment) Bill providing for reservation for SCs and STs in Government jobs (227<sup>th</sup> Session); vetting of CBI report on coalgate scam by the Law Ministry (228<sup>th</sup> Session); and Opposition to creation of separate State of Telangana (230<sup>th</sup> Session).

On an occasion, a member who had given notice to suspend Question Hour to discuss CAG report on defence procurement, was permitted by the Chairman to raise the matter without suspending the Question Hour. When some members objected to the matter being raised during the Question Hour, the Chairman ruled: "Please hear me. I have allowed him to raise the issue. The Leader of the House will respond and if the response and everything continues, Question Hour will begin".

The discussion went on for forty-five minutes. Thereafter, starred question no. 301 was called which was asked by a member and the answer was given by the Minister amidst noisy scenes. The House was, however, adjourned owing to uproarious scenes.<sup>85</sup>

During the 209<sup>th</sup> Session, some members demanded suspension of Question Hour for raising the issue of desecration of statute of Dr. B.R. Ambedkar at Kanpur, Uttar Pradesh. The House passed a resolution condemning that act and questions could not be taken up for oral answers on that day.<sup>86</sup>

During 210<sup>th</sup> Session, the Chairman permitted some members to raise the issue of Indo-US nuclear deal to which the Minister of Parliamentary Affairs responded. Thereafter questions were taken up for oral answers.<sup>87</sup>

During 211<sup>th</sup> Session, the Chairman made a reference to the twin bomb blasts in Hyderabad and allowed submission by some members in respect to that incident. The House was, however, adjourned at 11.55 a.m. due to disruption by members and questions could be taken up for oral answers.<sup>88</sup>

During the 228<sup>th</sup> Session, the Chairman made a reference on the occasion of International Women's Day and allowed members to speak on the occasion. Questions could not be taken up for oral answers on that day.<sup>89</sup>

### **Extension of Question Hour**

The making and subscribing of oath or affirmation by the newly elected/nominated members and obituary and other references such as felicitations/greetings, introduction of Ministers, welcome to new members, etc. are the first items taken up by the House. When the Question Hour used to be the first hour, the time spent on oath, obituary references, etc. was taken into account as part of the Question Hour. Earlier, during pre-2014 period, there had been many occasions when the entire first hour had been spent on obituaries, etc. Question Hour is not extended beyond the earmarked hour, at the end of which the Chair formally declares "Question Hour is over". The Chair does not agree to extend Question Hour to make good the loss of time of Question Hour on other items such as obituaries, felicitations, etc. or to cover the next question<sup>90</sup> or complete a reply to a supplementary question.

On an occasion, when a member pleaded, after Question Hour was over, that the next question was important, the Chairman observed:

"Usually the first hour is for questions; whatever may be the other question, we must terminate questions at 12 o'clock."<sup>91</sup>

After the Chairman declared Question Hour over, a member referred to a question standing in that day's list for answer by the Home Minister which was addressed by the member to the Prime Minister. The Chairman observed, "It is an established convention that we do not refer to questions once the Question Hour is over."<sup>92</sup>

After the Question Hour was over, a member wanted to ask a supplementary question as reply to only half of his question had been given. The Chairman did not agree to give further opportunities after the question time was over.<sup>93</sup>

On an occasion, points were raised during Question Hour regarding the designations of Ministers in Hindi. The entire Question Hour was occupied

by the points and no questions could be taken up. A member suggested that under rule 38, Chairman could continue Question Hour. The Chairman did not agree.<sup>94</sup>

After the Question Hour was declared over, it was requested that the Minister should be permitted to give reply to a supplementary question that had been put during Question Hour. The Chair did not agree. However, later in that day the Minister was allowed to make a statement.<sup>95</sup> The next day, the Chairman gave the following ruling:

“...duration of the Question Hour should not normally be extended either for purposes of continuing the discussion sought by non- official member or for the Government for keeping the records straight. The Ministers have, no doubt, the right to come to the House and with the consent of the Chair make pronouncement or official statement or clarification or to rebut a charge levelled against them. This may be done during the sitting of the House even if the original charge is made during the Question Hour. Similarly, the non-official members have the means of seeking further discussion on issues which they think have not been adequately raised during the Question Hour.”<sup>96</sup>

For about forty-five minutes during Question Hour members raised a matter regarding developments in Bihar and only two questions could be covered. After the Question Hour was over, some members suggested that Question Hour should be extended by half-an-hour as an important question regarding victimisation of employees, which was in the question list could be discussed. The Chairman did not agree.<sup>97</sup>

On an occasion the entire Question Hour was taken away by oaths and obituary references. A member suggested that Question Hour should be extended by an hour to discuss closure of industrial units which was the fourteenth question in the list of starred questions. The Chairman observed that he could not enlarge the Question Hour; it was a convention.<sup>98</sup>

After Question Hour was declared over, a member continued to ask a supplementary question but the Chair declared that the Minister could not respond to him as the time was over.<sup>99</sup>

On a number of occasions when Ministers wanted to complete the replies to questions asked earlier, the Chairman did not permit as Question Hour was over, observing, “The Minister’s answer will stop now” or “After the Question Hour is over, even the Minister cannot continue.”<sup>100</sup>

After the Chairman declared Question Hour as over, the Minister said, “Sir, I may add one thing”. The Chairman said, “You cannot”.<sup>101</sup>

On another occasion the Chairman announced twice that Question Hour was over. When the Minister said that she wanted to clarify, the Chairman said, “No” and ended Question Hour by announcing the third time that Question Hour was over.<sup>102</sup>

When the Prime Minister was answering a question and had not completed his reply, the Chairman declared that Question Hour was over. Some members demanded that the Prime Minister should be permitted to complete the statement. The Chairman did not agree.<sup>103</sup>

On some occasions, Ministers have been permitted to reply to supplementary questions or complete the reply after Question Hour was over, thus resulting in the extension of Question Hour by a few minutes for the purpose.<sup>104</sup>

When the Chairman declared that Question Hour was over, some members suggested that the Minister should be allowed to complete the reply. The Chairman observed (addressing the Minister), “If you will take only two or three minutes, I do not mind”. Then the Minister completed the reply within two minutes.<sup>105</sup>

After Question Hour was declared over, it was extended by eighteen minutes due to spate of points of order on a question regarding Pondicherry Licence Case. Question Hour was declared over only after the Deputy Chairman disposed the points of order.<sup>106</sup>

The Deputy Chairman declaring that Question Hour was over suggested to the concerned Minister that he should call members who had asked the question to his office and discuss the matter. Thereafter, the Minister gave a reply to the supplementary.<sup>107</sup>

On an occasion the Chairman observed, “Question Hour is over but let the reply be furnished.” Thereafter, the Prime Minister completed the answer. When a member suggested that there should be an extended Question Hour that day, the Chairman declined and again declared that Question Hour was over.<sup>108</sup>

### **Early end of Question Hour**

While on occasions members have demanded extension of Question Hour and the Chair has generally not agreed or agreed rarely as mentioned above, on occasions (though few and far between) Question Hour had ended earlier due to exhaustion of the list of questions. For instance, once the Chairman observed, “It is quite an event that we have finished questions before the Question Hour is over.”<sup>109</sup> On another occasion the Chairman announced, “There is no further question. The Question Hour is not yet quite over but the list is over, almost a historic event.”<sup>110</sup> Again, once

Question Hour was over two minutes early, while on another occasion it was over five minutes early.<sup>111</sup>

### **Point of order during Question Hour**

No point of order is generally permitted to be raised during Question Hour. Two reasons appear to be behind this restriction. First, Question Hour is available ordinarily for asking and answering of questions only. Secondly, if a point of order is permitted during Question Hour then it may act as a break on the progress of questions and answers during the limited time available for the purpose and eventually that hour may be lost. As the Chairman once observed, "We should not cut down the Question Hour by raising points of order."<sup>112</sup> On another occasion the Chairman stated, "There is a rule in this House...During Question Hour no point of order can be raised."<sup>113</sup>

On an occasion, a member rose on a point of order during Question Hour to bring to the Chairman's notice that the Chairman had allowed 2-3 members to raise point of order in spite of the Chairman's ruling that no member would be allowed to raise a point of order during Question Hour. The member wanted to know the correct position. The Chairman observed:

Points of order are being raised at every step unfortunately from all sides of the House. It is unfortunate. If we really want more questions to be answered, we must make a determination in our minds and conscientiously feel that we should not have any points of order during the Question Hour.<sup>114</sup>

On another occasion, when some members were raising points of order, another member suggested that it was time that the Chairman should announce that there should not be any point of order during Question Hour because the question time was unnecessarily being wasted. The Chairman observed:

I have repeatedly said that the rule is that unless there is a very extraordinary case, there should be no point of order during the Question Hour and under cover of points of order a debate should never be allowed.<sup>115</sup>

On an occasion when a member tried to raise a point of order arising out of alleged wrong and misleading information given to the House by the Ministers, the Chairman observed:

I have already said that during Question Hour no points of order should be raised unless there is some clear violation of procedure or some extraordinary point.

When a member asked how the Chairman could decide whether there was an extraordinary point or not without listening to the member, the Chairman observed:

He has already said that a point of order arises out of misleading answers given by the Ministers. Now, misleading answers or wrong answers do not give rise to a point of order.

Due to persistence of the member, however, the Chairman permitted the member to put his point to enable the Chairman to “see what the extraordinary point” was.<sup>116</sup>

A member rose on a point of order to challenge the reply of the Prime Minister to a question. The Chairman ruled that a member was entitled to challenge a wrong statement not during Question Hour but at some other time. The next day the member raised the matter and the Prime Minister clarified it.<sup>117</sup>

However, as observed by the Chairman, there could be some extraordinary point or violation of procedure which may necessitate permitting points of order even during Question Hour and there have been quite a few such instances.<sup>118</sup> On occasions, points of order have been permitted to be raised regarding (i) admissibility of question with reference to rule 51 before Question Hour commenced;<sup>119</sup> (ii) reduction in the coverage of questions;<sup>120</sup> (iii) postponement of a question in the midst as well as after Question Hour.<sup>121</sup>

On an occasion, the Chairman permitted a member to raise a point at the commencement of Question Hour regarding “Constitutional and moral validity of the Government”. The member’s contention was that the Government was in minority. The Chairman ruled out the point of order saying that it was the President who had power to appoint the Prime Minister and his Government. It was the other House to which the Government was responsible.<sup>122</sup>

Spate of points of order were permitted on the question relating to Pondicherry Licence Case (SQ no. 730). Question Hour was extended by eighteen minutes and it ended with the Deputy Chairman’s direction to the Government to verify the signatures of Members of Parliament named in the answer to the question and report to the House.<sup>123</sup>

A point of order was permitted to be raised during Question Hour on the issue of competence of a Minister to answer a question when he had retired from the membership of the Rajya Sabha.<sup>124</sup>

### **Disposal of questions in some contingencies**

There may occur many contingencies or situations when Question Hour may not take place due to reasons like suspension of Question Hour,

---

cancellation of a sitting, adjournment due to demise of a member or other high personage, uproarious or disorderly scenes, members making submissions on other issues and so on.

When the questions are not taken up because of the entire time having been spent on oath/obituary, etc., all starred questions for the day are treated as unstarred and their answers together with the answers to the unstarred questions are printed in the debates for that day.<sup>125</sup>

When the House is adjourned after making obituary reference, without transaction of any other business as a mark of respect to the memory of the departed, starred questions listed for that day are treated as unstarred questions for the next sitting of the House and answers to them together with the answers to the unstarred questions for that day are deemed to have been laid on the Table of the House and included and indicated in the printed debates of the next sitting accordingly. No separate announcement is made in the House.<sup>126</sup>

On an occasion, the House adjourned without transacting any business due to the demise of a member. Answers to questions admitted for that day were not laid on the Table of the House on the next day which was a Friday on which there was no Question Hour fixed, but were laid on the following Monday.<sup>127</sup>

On an occasion, the Chairman informed that answers to questions and short notice questions entered in the list of business for the previous day would be treated as laid on the Table of the House on that day. On the previous day the House had adjourned without transacting any business as a mark of respect to the memory of Shri Feroze Gandhi.<sup>128</sup>

However, on one occasion when the House adjourned, after obituary reference, as a mark of respect to the memory of the former Chairman, Shri M. Hidayatullah, the answers to questions listed for that day were deemed to have been laid on the Table of the House on the same day, which was a departure from the usual practice.<sup>129</sup>

In case the House adjourns after obituary reference or otherwise, without taking up the questions and meets again after sometime the same day, the replies to questions are deemed to have been laid on the Table of the House and printed in the debates of that day.

The House adjourned after making obituary reference to the passing away of Shri M.B. Rana, Minister of State in the Ministry of Industrial Development, to meet again at 5.30 p.m. on that day. Answers to questions were included in the printed debate of that day immediately after the proceedings relating to obituary reference.<sup>130</sup>

When the sitting of the House is cancelled, the answers to questions listed for that day are laid on the Table of the House at the next sitting of the House.<sup>131</sup>

The House adjourned immediately after commencement of the sitting on account of Guru Ravi Das Birthday. The answers to questions listed for that day were laid on the Table of the House the next day.<sup>132</sup>

Sitting of 7 March 1991 was adjourned at 11.02 a.m. after laying of copies of resignation letter of the Prime Minister and the President's letter. Answers to questions listed for that day were laid on the Table of the House on 11 March 1991 when the House met again.<sup>133</sup>

Consequent upon the cancellation of the sittings of the Rajya Sabha fixed for Friday, 11 August and Monday, 14 August 1995, all the questions entered in the lists of questions for both the days along with their answers were laid on the Table of the House on Wednesday, 16 August 1995.<sup>134</sup>

Starred question nos. 123 and 124 were addressed to the Finance Minister. Although the Minister of Finance was prepared to answer the questions, he was permitted to go as he was unwell. Answers to the questions were laid on the Table of the House.<sup>135</sup>

When Question Hour is suspended by adoption of a motion to that effect or by consensus, starred questions listed for that day are treated as unstarred questions and answers thereto and those of unstarred questions are laid on the Table of the House the same day.<sup>136</sup> In case the motion is negatived, Question Hour proceeds, time permitting.<sup>137</sup> If time runs out, starred questions are treated as unstarred and their answers together with those of unstarred questions listed are deemed to be laid on the Table of the House for that day.<sup>138</sup> If members make submissions for suspension of Question Hour and the submissions go on for the entire question time, answers to questions listed for that day are laid on the Table of the House the same day.<sup>139</sup>

If the House is adjourned due to interruptions, disorderly scenes, etc. during Question Hour, answers to questions listed on that day are deemed to be laid on the Table of the House on that day.<sup>140</sup>

If instead of questions, members raise other issues which consume the entire time of Question Hour, answers to questions listed are laid on the Table of the House the same day.<sup>141</sup>

On 24 May 1971, members raised a matter at the commencement of Question Hour regarding printing of designations of Ministers in Hindi

in the English version of list of questions and the entire question time was spent on the issue. Answers to all the questions listed for the day were laid on the Table of the House the same day.<sup>142</sup>

When Question Hour is dispensed with, specifically to provide more time for other business, the starred questions listed for that day are treated as unstarred questions and answers thereto are laid on the Table of the House on the same day.<sup>143</sup>

When sittings of the House towards the end of the session are cancelled i.e. when the remaining part of a session is cancelled or in other words the session is terminated earlier than the scheduled date, lists of questions already circulated and notices of questions given for those days lapse.<sup>144</sup>

The Deputy Chairman announced that the Rajya Sabha would adjourn *sine die* on 15 December 1961 and sittings of the House fixed from 18 to 22 December 1961, were cancelled. Notices of questions given for those days, therefore, lapsed.<sup>145</sup>

The 194<sup>th</sup> Session of the Rajya Sabha was adjourned *sine die* on 19 December 2001 and sittings of the House fixed for 20 and 21 December 2001 were cancelled. Notices given for those days, therefore lapsed.<sup>146</sup>

The 210<sup>th</sup> Session of the Rajya Sabha was adjourned *sine die* on 17 May 2007 and sittings of the House fixed for 18, 21 and 22 May 2007 were cancelled. Notices given for those days, therefore lapsed.<sup>147</sup>

The 211<sup>th</sup> Session of the Rajya Sabha was adjourned *sine die* on 10 September 2007 and sittings of the House fixed for 11, 12, 13 and 14 September 2007 were cancelled. Notices given for those days, therefore lapsed.<sup>148</sup>

Consequent upon the adjournment of the 213<sup>th</sup> Session of the House *sine die* on 6 May 2008, the sittings of the House slated for 7, 8 and 9 May 2007 were cancelled and all the notices of questions given for those days, therefore lapsed.<sup>149</sup>

The 228<sup>th</sup> Session of the Rajya Sabha was adjourned *sine die* on 8 May 2013 and sittings of the House fixed for 9 and 10 May 2013 were cancelled. Notices of questions given for those days, therefore lapsed.<sup>150</sup>

The 230<sup>th</sup> Session (first part) of the Rajya Sabha was adjourned *sine die* on 18 December 2013 and sittings of the House fixed for 19 and 20 December 2013 were cancelled. Notices of questions for those days, therefore, lapsed.<sup>151</sup>

When a sitting is cancelled and there are no other sittings for that group of questions during the session, notices of questions though already listed lapse on the prorogation of the House.<sup>152</sup>

Consequent on the cancellation of sittings on 25 and 26 August 1988, notices of questions given for 25 August (Group IV) were considered for 1 September 1988. Notices for 26 August were treated as lapsed since there was no subsequent question day for Group V during that session.<sup>153</sup>

Sitting of 24 December 1993, was cancelled. It was announced that questions listed for that day were treated as lapsed since there was no subsequent answer day for that group in that session. However, the session was extended and questions and answers thereto were deemed to be laid on the first extended day (*i.e.* 29 December 1993).<sup>154</sup>

On an occasion the Business Advisory Committee at its meeting held on 16 July 1991, *inter alia*, recommended that the sitting of the House fixed for Monday, 22 July 1991 (which preceded the holiday on account of *Muharram*) be cancelled and the notices of questions given for that day should stand lapsed.<sup>155</sup> Accordingly, a footnote appeared in the proceedings of the House of the next sitting, *i.e.*, 24 July 1991.<sup>156</sup>

On another occasion, the Motion of Confidence in the Council of Ministers was scheduled to be discussed in the Lok Sabha on 15, 16 and 17 April 1999 and hence the Leader of the House put forward a suggestion to adjourn the House till Monday, 19 April 1999. The Leader of the Opposition agreed to the suggestion and taking the sense of the House, the Chairman adjourned the House. The Motion of Confidence was defeated in the Lok Sabha on 17 April 1999. However, answers to questions for 15, 16 and 19 were treated as laid on the Table of the House. The lists of questions printed/circulated and notices of questions received for 20 April 1999 onwards were treated as cancelled/lapsed.<sup>157</sup> An O.M. to this effect was also sent to the Parliament Section of all the Ministries/Departments of the Government of India.

The 214<sup>th</sup> Session was scheduled from 17 October 2008 to 21 November 2008. The House was adjourned on 24 October 2008 to meet again on 10 December 2008. Notices of questions already received for the remaining dates of the session were carried forward and considered for answer on later dates when the House resumed its sitting on 10 December 2008. However, printed lists of questions for 27 and 29 October 2008 already circulated were cancelled.<sup>158</sup>

### **Notice of questions by members**

Unless the Chairman otherwise directs, a member is required to give not less than fifteen clear days' notice of a question. On 4 July 1996, the Chairman issued a direction that the notice period should be not more than

21 clear days and this direction came into effect from 5 July 1996.<sup>159</sup> But, in view of the immense inconvenience caused to the members, the Chairman reconsidered the direction and decided to do away with that restriction w.e.f. 5 May 1998.<sup>160</sup> In counting the period of fifteen clear days, both the date on which the notice is received in the Secretariat and the date on which the question, if admitted, will be put down for answer, are excluded.

Earlier, the notice period for questions was ten clear days which was extended to fifteen days as per the direction issued by the Chairman on the recommendation of the General Purposes Committee.<sup>161</sup> Subsequently, the Committee on Rules recommended a formal amendment to rule 39.<sup>162</sup> The amendment, as adopted by the House on 30 May 1995 came into force with effect from 15 June 1995 (174<sup>th</sup> Session).<sup>163</sup>

When time period between issue of summons and commencement of the session is less than fifteen clear days, the Chairman by invoking his power under rule 39 relaxes the 15 clear days period.<sup>164</sup>

After the issue of direction, during the 173<sup>rd</sup> Session when the time for notices for the first allotted day for questions, i.e., 14 February 1995, fell short of fifteen days, the Chairman relaxed the notice period to ten clear days. The Chairman also reduced the period of giving notices of questions for 27, 28, 29, 30 November and 1 December 1995 from fifteen clear days to ten, eleven, twelve, thirteen and fourteen clear days respectively during the 175<sup>th</sup> Session.<sup>165</sup>

After the issue of summons for the 224<sup>th</sup> Session, when the time for the first two sittings i.e., 22 and 23 November 2011 fell short of fifteen clear working days, the Chairman relaxed the notice period for giving notices of questions for 22 and 23 November 2011 to thirteen and fourteen clear days, respectively. Accordingly, the ballots for determining the, *inter se*, priority of members for including their questions in the list of questions for answer on 22 and 23 November 2011 were held on 8 November 2011, together with ballot for the sitting of 24 November 2011.<sup>166</sup>

Following the issue of summons for the 226<sup>th</sup> Session, as time fell short of fifteen days, the Chairman relaxed the notice period for giving notices of questions for 8 and 9 August 2012 to thirteen and fourteen clear days, respectively. Accordingly, the ballots for determining the, *inter se*, priority of members for including their questions in the list of questions for answer on 8 and 9 August 2012 were held on 25 July 2012.<sup>167</sup>

Following the issue of summons for the 228<sup>th</sup> Session, as time fell short of fifteen clear days, the Chairman relaxed the notice period for giving notices of questions for 22 and 26 February 2013 to ten and

fourteen clear days, respectively. Accordingly, the ballots for determining the, *inter se*, priority of members for including their questions in the list of questions for answer on 22 and 26 February 2013 were held on 11 February 2013, together with ballot for the sitting of 27 February 2013.<sup>168</sup>

After the issue of summons for the 229<sup>th</sup> Session, as time fell short for giving notices of questions for 5, 6 and 7 August 2013, the notice period was relaxed to twelve, thirteen and fourteen clear days, respectively. Accordingly, the ballot for determining the, *inter se*, priority of members for including their questions in the list of questions for answer on 5, 6 and 7 August 2013 were held on 23 July 2013, together with ballot for the sitting of 8 August 2013.<sup>169</sup>

Notices of questions for the last days of a session which fall short of the required notice period as well as notices which lapse on the termination of the session are returned to members.<sup>170</sup>

The notices of questions given by members lapse on the expiry of their term in the Rajya Sabha even if they are re-elected. This matter was discussed in great detail when the name of a member was excluded from the list of members who were slated to raise calling attention on the next day as he retired the previous day. The Chairman gave the ruling:

I think the notice which Shri Bhupesh Gupta gave lapsed on the termination of his membership. At the time, when this agenda started, there was no notice by him.<sup>171</sup>

During 225<sup>th</sup> Session, the term of office of a member expired on 2 April 2012 from Rajya Sabha. The member, however, got re-elected. Notices of questions given by him during the first half of the Budget Session for answer were considered as fresh notices on the written request from him.<sup>172</sup>

The sittings of the House scheduled for 12 and 13 April 1999 were cancelled in order to commemorate the Tercentenary Celebrations of Khalsa Panth. The notices received for those days were considered for the subsequent sittings in Groups I and II, respectively.<sup>173</sup>

When during the second part of the 180<sup>th</sup> Session which was scheduled to commence from 21 April 1997, the Deve Gowda Government lost its majority in the Lok Sabha owing to withdrawal of support by the Congress, the lists of questions printed/circulated and all the notices of questions received for the said part were treated as lapsed.<sup>174</sup>

In the meanwhile, the Gujral Government was sworn in and the third phase of the 180<sup>th</sup> Session was scheduled to commence from 30 April 1997. On the request of some members all the notices of questions given by

members for the second phase of the session, in supersession of the earlier Bulletin, were revived and considered after suitable adjustment of dates, groups and Ministries.<sup>175</sup>

A chart showing the last dates of receipt of notices of questions and the date of ballot for each sitting is circulated to members along with summons. A paragraph regarding the procedure for questions is also included in the Bulletin issued at the commencement of the session.

### **Form of notice of questions**

Notice of a question is given by a member in writing addressed to the Secretary-General and the text of the question is required to specify (a) the official designation of the Minister to whom it is addressed and (b) the date on which the question is proposed to be placed on the list of questions for answers.<sup>176</sup>

In order to enable members to address their questions correctly to the Ministers concerned with the subject-matter of the notice, a booklet showing subjects for which various Ministries are responsible is prepared biennially by the Secretariat on the basis of information collected from the Cabinet Secretariat and circulated to members.

Notices of questions are received on all working days in the Rajya Sabha Notice Office between 10.00 a.m. and 4.00 p.m., as notified in the Bulletin, after the issue of summons for the session.<sup>177</sup> Subsequently, it has been modified for different classes of business as indicated in Bulletin Part-II, prior to commencement of every session.<sup>178</sup> A paragraph regarding allotment of days for answering questions by Ministers is notified in the Bulletin.

Notice of each question is required to be signed by a member separately. Unsigned notices of questions are not accepted and they are returned to the members concerned for signatures. No other person can sign the notice of a question for or on behalf of the member.

Members are required to give notices of their questions in English or Hindi only. A member must specify only one date and not alternative dates for answer to a question.

For the convenience of members, standardised printed forms for giving notices of questions – starred, unstarred and short notice – are made available to them in the Rajya Sabha Notice Office. In accordance with the decision taken by the General Purposes Committee, from the

200<sup>th</sup> Session onwards, the forms for giving notices of starred and unstarred questions are serially numbered calendar year-wise and are made available to members on their written requisitions only.<sup>179</sup> Separate Standard year-wise serially numbered notice forms for asking starred/unstarred and short notice questions are got printed. Starred questions derive their name from the fact that they are always distinguished by an asterisk. Printed forms for giving notices of starred and unstarred questions are of pink and yellow colour, respectively. As per the direction of the Chairman issued on 4 July 1996, the text of the notice of a question has to be typed or neatly handwritten on the printed form. A notice on which the text is either stapled or pasted on the form is not entertained and such a notice is returned to the member concerned.

### **Notice to Ministers**

Unless the Chairman otherwise directs, no question is placed on the list of questions for answers until five days have expired from the day when notice of such question has been sent to the concerned Minister.<sup>180</sup>

Earlier, with a view to enabling the Ministries to collect material for preparation of replies to questions, Xerox copies of notices of all questions after their receipt in the Secretariat were sent to the Government under an informal arrangement. However, after the decision to admit a question was taken, advance copies of all such questions are also supplied to Ministries superscribed at the top as “Provisionally Admitted Question”(PAQ). Xerox copies of notices of questions as also provisionally admitted questions were collected by the representatives of the Ministries from the Rajya Sabha Secretariat under an informal arrangement so that they have more time to prepare their replies. The practice of sending Xerox copies of all the notices of questions was discontinued by GPC vide decision taken in its meeting held on 24 January 2003. It was also decided in the meeting that henceforth copies of notices of only PAQs may be sent to the Ministries concerned. The practice was however further revised in 2011 and now provisionally admitted questions are sent to the Ministries through e-mail superscribing at the top as ‘PAQ’. Ministries are informed of this procedure through an OM issued at the commencement of every session. The printed lists of questions are also put on the Rajya Sabha website under the link <http://rajyasabha.nic.in/>. But the printed lists of questions for answer on a particular day are supplied to them five days before the due date of answer, as prescribed by the rule mentioned above.

### **Types of questions**

There are three categories of questions, namely, a question for oral answer which is tabled with the intention that it should be given an oral

answer in the House during question time; a question for written answer which is not taken up in the House but the written answer to which is deemed to be laid on the Table of the House at the end of the questions for oral answers and is printed in the official proceedings of the House; and a question for oral answer with a notice shorter than the period mentioned in rule 39 (*i.e.*, fifteen clear days which was previously ten days).

A member who desires an oral answer to his question is required to distinguish it by an asterisk (\*). If he does not so distinguish it, the question, if admitted, is printed in the list of questions for written answers.<sup>181</sup>

#### **Limit on number of questions**

On 13 November 1962, during the emergency, the Chairman, after meeting with the Leader of the House, Minister of Parliamentary Affairs and the leaders and representatives of all the opposition groups in Rajya Sabha, announced that not more than five questions, both starred and unstarred combined, by one member, should be placed on the lists of questions for any one day and out of these not more than three questions should be placed on the list of questions for oral answers. He also announced that not more than thirty questions should be placed on the list of questions for oral answers on any one day. These changes came to effect from 19 November 1962. The overall limit for oral answers or starred questions per day, was reduced to twenty, as announced by the Chairman in consultation with the Committee on Rules.<sup>182</sup>

As per the direction of the Chairman issued on 4 July 1996, notice of a question was to be given not earlier than 21 clear days from the date for which it was intended. Notice of a question received before 21 clear days was not accepted in the Notice Office and in case the same was received through mail, no action was taken thereon and the same was returned to the member in original. But this restriction has since been done away with.<sup>183</sup> Not more than seven notices of questions of a member for a single day alone are considered in the order of preferences marked by him or otherwise in order of point of time of receipt. Notices in excess of seven are carried over to the next available day, if any.<sup>184</sup>

Before 22 February 2010, out of the five questions, both starred and unstarred, by any one member that could be placed on the list of questions for any one day,<sup>185</sup> not more than three questions could be placed on the list of questions for oral answers.<sup>186</sup> Again, out of those three questions only one question could be placed in the name of a member, as a first questioner by virtue of the priority obtained by that member in the ballot for that day and in respect of the other two, if any, the member's name

could appear as a second questioner in the process of clubbing; otherwise, they were placed in the list of questions for written answers.

If, after one question each of the members who have secured places in the ballot was entered in the list of questions for oral answers on any one day in the first round, the maximum number of questions to be included in a day's list, *i.e.*, twenty was reached, the second and third questions, if any, of those members were placed for the subsequent rounds in accordance with the order of preference, if indicated, by the concerned members in that behalf. The process may be illustrated thus:

While preparing the lists of questions for oral answers for 12 July 1991 and 10 July 1996, it was found that the lists fell short of two questions; in other words questions of only eighteen members who had given notices of questions for that day were found admissible. Therefore, names of the first two questioners appeared twice in those days lists—first as nos. 1 and 2 and subsequently as nos. 19 and 20 as original questioners, thus their two questions each were included in the lists of questions for oral answers on those days.<sup>187</sup>

However, with amendment to rule 43 w.e.f. 22 February 2010, not more than one question distinguished by an asterisk by the same member shall be placed in the list of questions for oral answer on any one day. Questions in excess of one shall be placed in the list of questions for written answers.<sup>188</sup>

Each question included in the list of questions for oral answer will be in the name of one member only by virtue of his/her position in the ballot.<sup>189</sup>

While preparing the list of starred questions for oral answers, preferences indicated by members on their notices of questions are taken into consideration and if no such preferences indicated then the notices are considered in point of time of their receipt.

Earlier, there was no limit on the number of admitted questions which could be included in the list of questions for written answers for any day. As a result, sometimes a large number of notices were admitted in the list of unstarred questions for a day making the list bulky and cumbersome. For instance, on 31 August 1988, the list of unstarred questions contained 346 questions.

The Committee on Rules considered the matter and was of the opinion that there should be a limit of 150 questions, including 20 questions for oral answers, postponed questions, if any, and 15 questions pertaining to

States under the President's Rule. The Committee accordingly proposed a new rule (51A) for the purpose.<sup>190</sup> While adopting the rule in the House, however, the limit of 150 questions recommended by the Rules Committee was increased to 175.<sup>191</sup> The new rule became effective from 15 June 1995 i.e., from the 174<sup>th</sup> Session<sup>192</sup> and continued upto the 232<sup>nd</sup> Session. However, with amendments to rule 51A in November 2014, the list of questions for oral answers shall have 15 questions and the list of questions for written answers shall have 160 questions. The new rule became effective from 8 December 2014 i.e., from the 233<sup>rd</sup> Session.<sup>193</sup>

#### Allotment of days for questions

The time available for answering questions is allotted on different days in rotation to such Ministry or Ministries, for the answering of questions by the concerned Ministers as the Chairman may, from time to time, provide, and on each of such days, unless the Chairman with the consent of the Minister concerned otherwise directs, only questions relating to the Ministry or Ministries for which time on that day has been allotted, is placed on the list of questions for oral answers.<sup>194</sup>

As soon as the dates of commencement and conclusion of a session are fixed, days are allotted to different Ministries/Departments of the Government of India for the answering of questions and are published in the Bulletin which is issued along with summons for the session. The information is also included in the provisional calendar of sittings.

For the purpose of answering questions in the House, the Ministries are divided into five groups and the Ministers answer questions in that rotation so that questions relating to one Ministry are answered on a fixed day once a week. In grouping of Ministries, it is ensured that allotment of days for Ministries does not clash with the days allotted to them in the other House so that the Ministers are able to be present in both Houses on their allotted days for answering questions.

If after the issue of a Bulletin notifying allotment of days for answering questions, or in the middle of a session, a Ministry is bifurcated or a new Ministry is created, allotment of days to such a Ministry is decided by the Chairman and notified in the Bulletin.<sup>195</sup> Likewise, any change in allotment of days for answering questions as a result of shifting of a Ministry is also notified to members in the Bulletin.<sup>196</sup>

A new Ministry called the Ministry of Non-Resident Indians' Affairs was created on 27 May 2004. It was renamed as the Ministry of Oversees Indian Affairs on 3 September 2004. From the 202<sup>nd</sup> Session, the answer day

for the Ministry was Thursday which is also the answer day for the Ministry of External Affairs.<sup>197</sup> However, in January 2016, it was proposed to merge the Ministry of Overseas Indian Affairs with the Ministry of External Affairs. Thereafter, in the ensuing 238<sup>th</sup> Session, both the Ministries were merged into one Ministry *i.e.* the Ministry of External Affairs. The answer day remains the same.<sup>198</sup>

During 214<sup>th</sup> Session, in the second half of the session, Ministry of Finance which had answer days on Tuesdays came under direct charge of the Prime Minister who had answer days on Thursday. However, as ballot/listing of notices of questions of the Ministry of Finance coming under the Prime Minister was nearly finalised, *status quo* was maintained and answer day for the Ministry of Finance was not changed.<sup>199</sup>

During 221<sup>st</sup> Session, the Minister for Human Resource Development took additional charge of the Ministries of Science and Technology, Earth Sciences and Communications and Information Technology. The answer day of the Ministry of Human Resource Development was Friday and of additional Ministries was Thursday. Following a request from the Minister, the answer day for the new Ministries was shifted to Friday.<sup>200</sup>

### **Questions to private members**

A question may also be addressed to a private member (*i.e.*, a member who is not a Minister) provided that the subject matter of the question relates to some Bill, resolution or other matter connected with the business of the House for which that member is responsible and the procedure in regard to such questions is the same as that followed in the case of questions addressed to a Minister with such variations as the Chairman may consider necessary or convenient.<sup>201</sup> So far, there has not been any instance in the Rajya Sabha when a notice of a question to a private member has been admitted.

### **Conditions of admissibility of questions**

A member may ask a question for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed.<sup>202</sup> The right to ask a question is, however, governed by certain conditions which are described below.

A question must be pointed, specific and confined to one issue only.<sup>203</sup>

Earlier it was stipulated that a question should be “clearly and precisely expressed”. The Committee on Rules recommended that these words should be replaced by the words “pointed, specific and confined to one issue only”. The rule was amended accordingly.<sup>204</sup>

A question must not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements.<sup>205</sup>

When a member made certain allegations against the Prime Minister in the course of asking a supplementary question, the Chairman read out sub-rules (1) and (2) (i) to (iv) of rule 47 and observed:

... I have decided that if epithets or imputations are made, I shall take the authority myself to have it expunged. I want to give this warning to every member of this House. If such things continue, I shall have to take very drastic measures. Otherwise, no business can be conducted in this House any longer.<sup>206</sup>

The text of the question should contain all the references necessary to make it self-contained, viz., the name of a newspaper along with its date, if the question is based on a press report; the number of a previous question with its date, if the question is in pursuance of an answer to a previous question, the date and place of occurrence of an event, if the question is eliciting information in respect thereof, etc.

A question must not bring in any name or statement not strictly necessary to make the question intelligible.<sup>207</sup> While admitting a question, names of individuals appearing in the body of the notice are ordinarily omitted, but in the case of an official, his designation may be mentioned.

If a question contains a statement, the member shall make himself responsible for the accuracy of the statement.<sup>208</sup> The responsibility envisaged under this condition is a moral and not a legal responsibility.

A question must not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical proposition.<sup>209</sup>

A question must not ask as to the character or conduct of any person except in his official or public capacity.<sup>210</sup> Allegations of a defamatory character against an individual or personal insinuations are, therefore, not admissible.

A question must not exceed 100 words.<sup>211</sup>

The earlier limit was 150 words. The Committee on Rules recommended that the limit should be reduced to 50 words. However, the House raised it to 100 words and the rule was amended accordingly.<sup>212</sup>

A lengthy question is, wherever possible, suitably abridged, if otherwise admissible. Such a question may be admitted after deleting unnecessary parts and words, keeping intact the substance of the question as too many

details or statements which make a question lengthy may result in consuming major time of the Question Hour to the disadvantage of other precise questions.

A question must not relate to a matter which is not primarily the concern of the Government of India.<sup>213</sup> Questions within the purview of States are generally disallowed. However, if a question, though touches upon a State matter, is of a national importance, it may be admitted. The decision to allow a question which is not the primary concern of the Government of India is taken on the merit of each case. A member can table a question seeking information on matters arising out of the control, supervision or administration of Central assistance or grants to the States.

A question must not ordinarily ask for information on matters which are under the consideration of a parliamentary committee.<sup>214</sup> A question must not also ask about proceedings in a parliamentary committee which have not been placed before the House by a report from the committee.<sup>215</sup> If such a question gets admitted then no discussion is allowed on it in the House.

A question regarding purchase of defective tyres was admitted. Before the question could be put, a point of order was raised that the matter was under the consideration of the Public Accounts Committee and as such the question was inadmissible. The Chairman directed that the question be asked and answer given and thereafter he would consider the matter.

The question was accordingly put and answer given. Thereafter, the Chairman observed:

After the question is put we have come to know that the Public Accounts Committee is seized of the matter and when the report of the Public Accounts Committee comes, we shall certainly give an opportunity for putting questions.

Thereafter, the Chairman called the next question.<sup>216</sup>

A notice of a question regarding outstanding central excise duty against fifty odd major companies was given by referring to answers to previous questions given in the Lok Sabha. The Ministry of Finance, however, pointed out that the matter was under consideration of the Committee on Government Assurances (Lok Sabha). The question was accordingly disallowed.<sup>217</sup>

Where a question makes no direct reference to the recommendations of a committee though the subject thereof may have been considered by the committee, it is admissible only if it asks for some factual information

which is not readily available in the report of the committee. Questions seeking information in respect of specific recommendations of a committee which have remained outstanding for long or their implementation has been unduly delayed by the Government may be asked.

The proceedings of a parliamentary committee are treated as confidential and it is not permissible to disclose any information regarding such proceedings before the report is presented to the House. No question seeking information about the proceedings of a committee is, therefore, admitted. The same applies to supplementary questions also.

Matters discussed in a Consultative Committee of Members of Parliament or its proceedings are not allowed to be raised or referred to in the House during the Question Hour.<sup>218</sup>

A question must not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion.<sup>219</sup> Under the Constitution, conduct of persons holding certain offices cannot be discussed in the House except on a substantive motion. Such offices are the President, the Vice-President, the Speaker, the Judges of the Supreme Court or a High Court, the Chief Election Commissioner and the Comptroller and Auditor General.<sup>220</sup> Therefore, questions are not admitted in respect of them.

Questions relating to the President are not admitted unless they seek information of purely factual nature, for instance, foreign tour of the President of India.

An unstarred question asking from the Minister of External Affairs  
(a) the countries visited by the President of India in recent weeks;  
(b) whether any bilateral agreements were entered into between India and those countries on the occasion of the President's visit; and  
(c) the details thereof, was admitted and answered.<sup>221</sup>

The same applies to questions relating to the Vice-President of India who is also the *ex-officio* Chairman of the Rajya Sabha.

A starred question regarding Manila Conference was admitted. A member put a supplementary question asking why the Government advised Vice-President of India to go to Thailand and make certain speeches not in keeping with the policy of the Government of India. Objection was taken by some members that such a question could not be asked. The Chairman permitted the question on the ground that it was not the Chairman who was being criticised and the questioner was not referring to the Chairman but was referring to the Vice-President.<sup>222</sup>

Since Governors are Heads of respective States, questions about them, or containing or implying reflections on them are not admitted.

Similarly, questions are not permitted on the conduct of Judges of the Supreme Court and High Courts.

A short notice question was admitted regarding the Supreme Court judgment in the Minerva Mills case. When in the course of a supplementary question a member referred to some statements attributed to one of the Judges who gave the judgement in the case, the Chairman ruling it out observed, “I rule that you shall not discuss the conduct of the four Judges in the light of what Mr. Bhagwati has said. It is a matter between Mr. Bhagwati and the four Judges. We cannot enter into it. I shall go very clearly into the records and my red pencil will rule out everything...”<sup>223</sup>

A question was asked about holding of court at New Delhi Railway Station by a sitting Judge of Allahabad High Court. When the question was taken up for oral answer, some members objected to the admission of the question as it cast reflection on the conduct of a Judge. The question, however, could not be discussed on the floor of House as the Minister informed the House that the Supreme Court had taken cognizance of the matter and as such, it was *sub-judice*.<sup>224</sup>

A question must not make or imply a charge of a personal character.<sup>225</sup> Insinuations or introduction of personal element in questions or implied charges of a personal character against responsible persons are not permitted.

A question must not raise questions of policy too large to be dealt within the limits of an answer to a question.<sup>226</sup> A policy issue being too large and extensive a matter, the entire time of Question Hour will be consumed by a question raising such a matter.<sup>227</sup> Moreover, the appropriate device to raise or discuss a policy matter is a motion or a resolution, etc. and not a question. Some such questions disallowed were:

On an occasion when on a question regarding distribution, sale and manufacture of imported liquor in India, a member asked a supplementary regarding implementation of the Directive Principle of State Policy regarding prohibition, the Deputy Chairman did not permit it observing that it was a larger question.<sup>228</sup>

On another question regarding abolition of customs duty in Kashmir, when a member asked a supplementary regarding abolition of customs duty in all Part B States, the Deputy Chairman observed, “We cannot discuss policies in Question Hour.”<sup>229</sup>

On the same ground a supplementary question regarding steps to raise the standard of medical education was ruled out by the Chairman as it was a question involving policy.<sup>230</sup>

When a member spoke about constitutional vicarious responsibility of a Minister for a railway accident while asking a supplementary question, the Chairman observed:

My opinion is that policy questions cannot be discussed during question time. Certainly policy discussions can be held during the Budget discussions.<sup>231</sup>

Likewise, when there was a question about Bhilai and Bokaro Steel Plants, a supplementary regarding the Government's policy of cooperation between India and the Soviet Union was ruled out by the Deputy Chairman observing:

...The Question Hour should not be made a point for bringing in discussion on general policy matters; it should be used only for pointed questions. There are many other opportunities for the members for whatever discussion they want to raise.<sup>232</sup>

On the question regarding rise in prices of essential commodities when a member asked a supplementary whether the Government would take over wholesale trade and introduce Public Distribution System, the Chairman ruled out the supplementary question stating, *inter alia*, that there could not be a single policy for all the commodities and, therefore, the supplementary question was too large for answer by the Minister.<sup>233</sup>

However, in case of starred question no. 63 which was regarding "New Industrial Policy", before the supplementary questions commenced, the Chairman invited attention of the House to rule 47(2)(xiii) but stated that he was not strictly adhering to that but members should adhere to the rule.<sup>234</sup>

On a question regarding export of soya meals by MMTC, a member said he would like to raise a policy question. The Chairman observed that it was not allowed under the rules, yet he permitted the member to ask a supplementary question.<sup>235</sup>

A question must not repeat in substance questions already answered or to which an answer has been refused.<sup>236</sup> This rule prohibits repetition of questions which have already been fully answered. Such repetition is treated as an abuse of the right of questioning or likely to affect the procedure of the House and is, therefore, not admitted. If there is any question which appears to be in substance a repetition of a question answered earlier, it

is for the Ministries concerned to bring that fact to the notice of the Secretariat.

When a Minister has refused to answer a question, subsequent notices of questions on the same subject are disallowed. A question is generally not disallowed on the ground that it is not in the public interest to disclose the information. It is for the Minister to refuse to answer on the plea on public interest on the floor of the House.

Starred question no. 675 was asked about LIC investments. In reply, the Minister stated that it was not in public interest to disclose names of companies in which the Corporation held investments. After Question Hour, a member raised the matter and stated, *inter alia*, that it was an infringement of the privileges of members and requested the Chairman to direct the Minister to supply the information.<sup>237</sup>

When some members wanted to know about the profits which STC/MMTC were making while supplying materials to small scale industries, the Minister, *inter alia*, stated that it would not be in the public interest to give publicity to it. On a point of order arising out of this, the Chairman ruled:

The Minister says it is not in public interest to disclose the rates of profit or the information which is demanded from him. I cannot compel him to disclose what is not in public interest.<sup>238</sup>

A question must not ask for information on trivial matters.<sup>239</sup> This rule is intended to discourage asking of questions on petty matters or on minor details or on purely local matters which a member can take up with the appropriate authority.

A question must not ordinarily seek information on matters of past history.<sup>240</sup> Generally, questions going into past history or based on matters which are historical or academic in nature are not admitted.

Earlier, a large number of notices of questions were being received from members seeking information on matters relating to past period extending to several years. Members were, therefore, advised that keeping in view the provisions of rule 47(2)(xvi), they should not seek information relating to period exceeding three years.<sup>241</sup>

Questions asking for information for periods more than three years or fairly longer periods are, therefore, generally amended so as to restrict the information to a three year period in case the question is otherwise admissible.

A question must not ask for information set forth in accessible documents or in ordinary works of reference. Questions seeking information

which is available in gazettes, reports, documents, books and other papers are not admitted. The proceedings of the Lok Sabha of earlier sessions fall into the category of accessible documents and questions are not generally admitted in the Rajya Sabha if answers are found in such proceedings. Whenever information is available in public library or in reference books questions thereon are not admitted.<sup>242</sup>

A question must not raise matters which are under the control of bodies or persons not primarily responsible to the Government of India.<sup>243</sup> Questions relating to the work of non-official organisations are not ordinarily admitted, unless they relate to actions of the Government, or the Government has made grants to such organisations.

A question must not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India,<sup>244</sup> i.e., *sub-judice* matters.

When in the course of asking a supplementary question, a member wanted to know about the arrest of a Municipal Commissioner, the Chairman ruled, "The matter is under investigation. We cannot have questions raised whether he was rightly arrested or wrongly arrested."<sup>245</sup>

In reply to a question regarding police searches in Cuttack, the Minister stated that since the action of the police in conducting the searches was *sub-judice* before the Orissa High Court, it was not proper to furnish any further details. The Chairman upheld the answer and did not permit further supplementaries.<sup>246</sup>

When a question regarding an affidavit filed by the Director of the Indian School of International Studies in a defamation case was about to be put, a point of order was raised that the question could not be asked as it was on an affidavit in a court of law and referred to a fact at issue. The Chairman, however, permitted the question and answer and thereafter upheld the point of order and ruled out further discussion.<sup>247</sup>

When on a question regarding the height of Nagarjunasagar Dam, some members put supplementaries, the Minister concerned stated that he would not be able to enter into a discussion about this matter as it was before the Tribunal and when a member insisted on getting the information, the Deputy Chairman observed:

The Minister has... stated that all the questions that have been asked... refer to matters which are being referred to and will be decided by the Tribunal and, therefore, the Minister does not want to give any information as the proceedings before the Tribunal may be prejudiced. Therefore, it would not be desirable to compel

the Minister to give information on the facts which are before the Tribunal for consideration.<sup>248</sup>

In regard to a question regarding the seizures of ten-dollar notes in Mysore, a member wanted to know the name of the person involved. When the Minister stated that he would give the name if the Chairman allowed, the Chairman observed:

When the investigating department, that is, the Police Department which investigates, arrives at its conclusions and feels that there is a *prima facie* case, after that there is no harm in disclosing the name because the name will be in the court and the court proceedings are public, but until that stage arrives, I do not think it will be proper that the name should be disclosed. My reason is that if the Police itself considers that there is no case against him and that he is an innocent person, then unnecessarily his reputation will be besmirched. ...When the Police feel that a person is guilty *prima facie* then the name should be disclosed.

However, the Chairman directed that if in the opinion of the Home Minister, the investigation would be prejudiced in case the name was disclosed, he need not disclose it. The Minister thereafter, however, disclosed the name.<sup>249</sup>

When a member asked a supplementary question, some members argued that the matter raised was *sub-judice*. The Chairman gave the following ruling:

If this kind of contention continues in relation to a supplementary question, the main question has been answered; the Chair will construe that as a closed matter and go on to the next question.

No further supplementaries on the question including the second supplementary was allowed and the next question was called.<sup>250</sup>

A question must not relate to a matter with which a Minister is not officially connected.<sup>251</sup> Questions about anything said or done by a Minister in his non-official capacity are not permitted.

A question must not refer discourteously to a friendly foreign country.<sup>252</sup> Questions relating to administration or affairs of a foreign State are not admitted.

A question must not seek information about matters which are in their nature secret.<sup>253</sup> Questions asking for information about the internal working of the Cabinet or its committees or sub-committees, Cabinet discussions or advice given to the President in relation to a matter in

---

respect of which there is a constitutional, statutory or conventional obligation not to disclose information are not admitted as these matters are in their very nature regarded as secret.

No question must be asked in respect of matters which are or have been the subject of correspondence between the Government of India and the Government of a State, except as to matters of fact and the answer to such a question is confined to a statement of fact.<sup>254</sup>

On an occasion, when a member read out from a letter of the Governor of a State to the Chief Minister of that State and asked what steps the Government had taken thereon, the Chairman called the member to order and observed, "We have got a clear rule that communications between the Government of India and State Governments should not be the subject of questions in this House."<sup>255</sup>

A question based on a press report is not admissible if it does not contain any substantial matter in it. Questions which merely ask about the details of the news-item are generally disallowed.

On a starred question asking whether the Government's attention had been drawn to a newspaper item and the details thereof, the Chairman observed:

I find that a number of questions are put saying that it has appeared in a paper, whether the Government's attention has been drawn. Instead of the newspapers giving publicity to politicians, politicians are giving publicity to the newspapers. You must take the substance of the matter and then ask whether it is a fact or not. You should not say whether a report has appeared in some paper and what it is. You may note it for future reference. If some such question comes hereafter, I will not allow it.<sup>256</sup>

Questions relating to the day-to-day administration in respect of public undertakings/autonomous bodies/statutory corporations are not ordinarily admitted for answers unless a matter of policy or public interest is involved. Information in respect of working of the statutory corporations and limited companies in which the Government has financial or controlling interest may be obtained by members direct from the corporations or companies concerned. For this purpose, Ministries of the Government of India have issued directions to the statutory bodies and limited companies functioning under them to supply the requisite information to the members directly on request.<sup>257</sup>

In 1982, some members had given notices of questions asking for information regarding grant of increments, foreign visits, termination

of services of faculty members, telephone bills, mess accounts, salary expenditure relating to JNU. The Chairman disallowing the notices observed in his orders on the file: "We cannot allow domestic matters of an autonomous body to be investigated this way. A matter should be of such importance as to concern all the people."<sup>258</sup>

On a question regarding discrimination in the matter of grant of loans by banks, a member asked a supplementary question to know the total amount of loan sanctioned by the State Financial Corporation of Haryana to an individual related to the Chief Minister of Haryana. The Chairman ruled out the question observing: "It is the principle of banking and observed in this legislature that nobody can ask questions about the loan transactions of any one individual."<sup>259</sup>

Questions on matters falling within the jurisdiction of the Presiding Officers of the two Houses are not admitted. So also a question on a matter falling within the jurisdiction of Lok Sabha is not admissible in the Rajya Sabha.

An answer to a question in the Rajya Sabha cannot refer to the answer to a question or proceedings in the Lok Sabha during a current session.<sup>260</sup> Therefore, there is no bar with regard to similar questions being admitted in the two Houses in the same session.

#### **Chairman's decision on admissibility of questions**

The conditions of admissibility of questions set out above do not cover all the contingencies in which questions may not be admitted. The admissibility of a question, not covered by the specific provisions in the rules, is determined in the light of past precedents and well-established parliamentary practices, conventions and usages. In these and other cases, the Chairman decides whether a question or a part thereof, is or is not admissible under the rules and may disallow any question or a part thereof when in his opinion it is an abuse of the right of questioning or calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of these rules.<sup>261</sup>

The Chairman has also the power to direct that a question be placed on the list of questions for answers on a date later than that specified by a member in his notice, if he is of the opinion that a longer period is necessary to decide whether the question is or is not admissible.<sup>262</sup> It is also a well-established practice that in case of any doubt about any aspect of a question, a reference is made to and factual position obtained from the Ministry concerned and the admissibility of such a question is determined in the light of factual information received. Ministries are expected to

supply the information promptly and in any case within three days of receipt of such reference. Admissibility of a disallowed question may be reconsidered on a representation from the member concerned.

If in the opinion of the Chairman any question put down for oral answer is of such a nature that a written reply would be more appropriate, the Chairman may direct that such a question be placed in the list of questions for written answers.<sup>263</sup>

Starred question no. 163 regarding number of memorials erected in the country in the last three years in honour of freedom fighters was answered on 14 November 1986.<sup>264</sup> In a note to the Secretary-General, the Chairman directed that the questions which called for statistics should be listed as unstarred.

The lowest diary starred question of a member proposed for starred list for 28 April 2010 at No. 475 was admitted as unstarred question since the question was seeking statistical information. Another question of the member was taken for starred list in its place.

The Chairman may also, if he thinks fit, call upon the member who has given notice of a question for oral answer to state in brief his reasons for desiring an oral answer and, after considering the same, give his direction.<sup>265</sup>

Members cannot question the right of the Chairman to admit or disallow a question.<sup>266</sup>

When a notice of a question is disallowed, the member concerned is informed by the Secretariat about the reasons for such disallowance.

On an occasion a member rose on a point of information to say that he had given notices of certain questions and received a reply that the Chairman had disallowed them. He referred to an earlier practice under which when a question was disallowed, the rule which was offended was quoted so that the member knew the reason for the rejection of the question. The Chairman observed, "Generally, when I disallow questions, I have sufficient reasons for disallowing them, and the Secretary will always be pleased to give the hon'ble member the information that he asked for."<sup>267</sup>

### **List of questions and draw of lots**

Questions, which have not been disallowed are entered in the list of questions for the day for oral or written answers, as the case may be, in accordance with the orders of the Chairman.<sup>268</sup> The total number of questions to be included in the lists of questions for oral and written answers for any

one day shall be limited to 175 [15 questions for oral answers and 160 questions for written answers] including, questions postponed from one list of questions to another for written answers and fifteen questions pertaining to the States under the President's Rule.<sup>269</sup> With a view to determining the *inter se* priority of members for inclusion of their names in the list of admitted questions for oral answers, a ballot or draw of lots is held at 5.00 p.m. in the Lobby of the Central Hall on the last day for receipt of questions for the day.

The ballot procedure was introduced for the first time for determining the *inter se* priority of questions in 1970 (71<sup>st</sup> Session) on the recommendation of the Business Advisory Committee.<sup>270</sup> The General Purposes Committee recommended in 1974 that a ballot be held at 5.00 p.m. on the last date for receipt of notice under rule 39 in respect of notices of starred questions received upto 3.00 p.m. for that day, with a view to determining the *inter se* priority of members who had given such notices and the list of admitted starred questions should be prepared in accordance with the result of such ballot. When a notice of a starred question was given by more than one member, such a notice should be deemed to have been given by the first signatory only for the purpose of ballot.<sup>271</sup> Names of twenty-five members are determined in ballot for preparation of starred list of questions. Idea behind ballot priority of twenty-five members is to overcome the situation when there is no admitted question in respect of member(s) who have secured ballot position up to 15. Admitted starred questions of members who have secured ballot position beyond 15 are included in that case in the starred list.

From the 107<sup>th</sup> Session<sup>272</sup> to 232<sup>nd</sup> Session, the limit of number of starred questions for inclusion in the list per day was twenty and from the 116<sup>th</sup> Session<sup>273</sup> to the 218<sup>th</sup> Session, the names of members to be clubbed to a starred question was restricted to two. As per new rules made effective since 27 November 2014 (233<sup>rd</sup> Session), the limit of number of starred question per day has been changed from 20 to 15. Also, as per the rules made effective since 22 February 2010 (219<sup>th</sup> Session), in the place of clubbing, each question in the starred list would be in the name of a single member by virtue of his position in the ballot.

Since 1993, the result of the ballot of questions is also being displayed on the Notice Board in the Outer Lobby and the Notice Office in the Parliament House.<sup>274</sup> Since November 1994, the draw of lots, which earlier used to be held in the Central Hall manually was also computerised. A member, if present to witness the ballot, or the Secretary-General/Divisional Head/ senior officer of Question Branch is requested to operate the computer

for the draw of lots each day. However, the practice of holding the draw manually in respect of starred questions has been resumed again from 199<sup>th</sup> Session.<sup>275</sup> During 227<sup>th</sup> Session, the draws of lots for unstarred questions were also held manually as names of some members in the computerised pre-ballot chart for unstarred questions appeared twice due to some technical fault. The practice of holding computerised draws in respect of unstarred questions lists was, however, resumed from 228<sup>th</sup> Session.

The Rajya Sabha was summoned to meet on 26 August 1991, for its 160<sup>th</sup> Session by the Summoning Order dated 14 August 1991. As 15 August 1991 was a holiday on account of the Independence Day, the draw of lots for questions for 26 August 1991 (first day of the session) was held on 16 August 1991 i.e., a day later than the usual tenth clear day.<sup>276</sup>

For the first time draw of lots was held in Room No. 119, Attic Storey, Parliament House in the year 1970 (71<sup>st</sup> Session).<sup>277</sup> This venue shifted to Room No. 32 in the year 1975 (91<sup>st</sup> Session).<sup>278</sup> During the 94<sup>th</sup> Session (December 1975), the draw of lots was held in Room No. 239, Parliament House Annexe and till January 1979 (108<sup>th</sup> Session) the venue remained the same.<sup>279</sup> Thereafter the venue continued to shift from Room No. 31, Parliament House, during April 1979 (109<sup>th</sup> Session)<sup>280</sup> to Room No. 34, Parliament House (116<sup>th</sup> Session) in October 1980<sup>281</sup> and from there to Room No. 28, Parliament House during January 1981 (117<sup>th</sup> Session).<sup>282</sup> During 145th session in January 1988 the venue shifted to the Central Hall, Parliament House and since then there has been no change in the venue.<sup>283</sup>

Listing of questions is done on the basis of preferences indicated by respective members out of the questions given by them for a particular date. In the process when the questions are finally listed, sometimes it may happen that one or two Ministries occupy positions in the list of questions in close succession. As a result, Question Hour would largely cover only one or two Ministries. Questions relating to other Ministries earmarked for a particular date would not come up during Question Hour. The Committee on Rules considered the matter and recommended a new rule for the purpose. However, in the motion moved in the House, the proposed rule was deleted.<sup>284</sup>

So far as admitted questions for written answers are concerned, till 173<sup>rd</sup> Session they used to be arranged according to the time of receipt of the notices in the Secretariat. However, as a result of the limitation of total 175 starred and unstarred questions for any day, since 174<sup>th</sup> Session, two ballots are held — one for starred questions for indicating names of members for a list of 20 questions and another for unstarred questions for

indicating ballot priority of members for including their questions in the list of 155 questions for written answers.<sup>285</sup>

There has been an instance when the list of starred questions remained short of 20 questions as notices for the given date were received from only 17 members. To overcome the situation, the process of rounding was repeated as a result of which all first four members had two questions in their name as sole/first questioner.<sup>286</sup> However, after invocation of rule for including the name of one member only once by virtue of his position in the ballot for list of questions for oral answer, the name of a member cannot be repeated in case the number of members who have given notices for starred question for a sitting is less than 20 in number.

Questions for oral and written answers are numbered separately. The numbering is done separately for each list beginning from 1 at the commencement of each session and continued consecutively until the end of the session. A number in the list of questions for oral answers is marked by an asterisk.

For facility of identification, the list of questions for oral answers is printed on a pink paper and the one for written answers on a yellow paper.

In 1974 (87<sup>th</sup> Session) members were informed that due to scarcity of the usual yellow paper, the lists of unstarred questions were being printed on white paper ‘for the present’.<sup>287</sup>

The names of the Ministries in respect of which questions are included in a particular list are indicated at the top of the list in alphabetical order, as also the total number of questions included in the list. At the end of the list a Ministry-wise Index is appended to indicate the number of questions which appear in that list in respect of each Ministry.

Each question included in the list of questions is given a suitable heading and the name(s) of the member(s) who has/have tabled the question and the designation of the Minister to whom it is addressed are printed in capital letters. If a question is withdrawn or postponed to a later date before it is taken up in the House, the same is deleted, by issuing a corrigendum and the concerned Member/Ministry is informed accordingly.

### **Clubbing of names of members**

Earlier, there was no limit on the number of names of members which could be clubbed to a starred question. As a result, on several occasions

names of a large number of members were clubbed to a starred question. On four occasions, for instance, the number went as far as upto 34.<sup>288</sup> Obviously, this affected the coverage of questions for answers on the floor of the House.

There were as many as sixteen names of members which were clubbed to starred question no. 525 regarding charter of demands of a political party, on 18 August 1967. Only two questions could be covered that day.

The Chairman in consultation with the General Purposes Committee directed that not more than five names of members should be clubbed to a starred question.<sup>289</sup> The names of members in excess of five were omitted. This process remained in vogue till 1978. The Committee on Rules recommended that the number should be reduced to three.<sup>290</sup> Accordingly, this practice continued till 1980. The Committee on Rules reconsidered the matter and further reduced the number of names for clubbing to a starred question to two.<sup>291</sup> The practice of clubbing only two names to a starred question and ignoring names in excess of two continued till 21 February 2010. Besides the first name in accordance with the result of the ballot, the name of the other member was to be clubbed in the order in which his notice was received in point of time. When a notice of a starred question was given by more than one member, i.e., a joint notice, it was deemed to have been given by the first signatory only for the purpose of draw of lots and inclusion of name in the starred list. After amendment to rule 43 w.e.f. 22 February 2010 each question included in the list of questions for oral answer stands in the name of one member only by virtue of his position in the ballot.<sup>292</sup>

So far as unstarred questions are concerned, there is no limit on the number of members whose names may be clubbed thereto. However, the overall limit of five questions per member per sitting is kept in mind while clubbing the names.

#### **Consolidation of questions of same or allied subjects**

Notices of only those questions by different members which are identically worded are clubbed together and their *inter se* priority is determined in accordance with the draw of lots/receipt in point of time. Questions of the same subject but touching on different aspects are not clubbed and their admissibility is determined separately. The Committee on Rules considered the matter of consolidating identical questions but felt that the current practice was working satisfactorily.<sup>293</sup>

#### **Order and mode of calling and asking of questions**

Questions for oral answers are called in the order in which they stand in the list of questions.<sup>294</sup>

The Chairman calls successively each member in whose name a question appears in the list of questions. The member so called rises in his place and asks the question standing in his name by reference to its number in the list of questions.<sup>295</sup>

Before 22 February 2010, when a question appeared in the names of two members and one of them was absent, and if the question reached for oral answer, the other member who was present might ask the question. In the printed debate, however, the names of both the members were printed with a footnote indicating the name of the member who actually asked the question on the floor of the House.

When a member on being called by the Chairman state that it was not his intention to ask the question standing in his name,<sup>296</sup> the question was treated as having been withdrawn and in such a case no written answer was deemed to have been laid on the Table.<sup>297</sup> In other words, the question was not shown in the printed debate.

In protest against the reinduction of Minister of Defence in the Council of Ministers, the member in whose name starred question no. 141 was listed for answer on 28 November 2001, on being called by the Chairman refused to put the question. The Chairman then ruled, “If you are not putting the question, then it is withdrawn”. Accordingly, starred question no. 141 was treated as withdrawn.<sup>298</sup>

However w.e.f. 22 February 2010, if on a question being called it is not put or the member in whose name it stands is absent, the Chairman shall direct that the answer to it be given.<sup>299</sup>

### **Taking of identical questions together**

Where two questions on the same or allied or identical subject addressed to the same Minister appear in the list of starred questions for any particular day or when the first of them reaches for answer, the Chairman may *suo motu* or on the request of any member direct that such questions may be taken up together for answers irrespective of the order in which they stand in the list provided that there is no objection from the members/Minister to such a course. In such a case both the questions are put one after the other and answered separately.<sup>300</sup>

Starred question no. 409 listed for 26 May 1972 related to distribution of steel. A member asked a supplementary question regarding its maldistribution which was listed at no. 419 in the name of another member. The latter member suggested that if the supplementary

question was allowed, both the questions could be taken up together or the supplementary question should be taken up when starred question no. 419 reached for answer. Since the supplementary question had already been put, the Chairman, seeing that there was no objection, permitted both the questions to be put together.<sup>301</sup>

A member asked a supplementary question regarding the delay in the appointment of Marriage Officers under the Special Marriage Act. The Chairman pointed out that that question was at no. 4. The Minister, in reply, referred to the answer to that question. The Chairman directed the Minister to give the answer then itself and took both the questions together.<sup>302</sup>

There have been occasions when even three questions were taken up together.<sup>303</sup>

When the Chairman announced that three particular questions would be taken together, a member pointed out that they all differed: two questions related to fishermen of Rameshwaram and the third one related to the influx of refugees from Sri Lanka. The Chairman observed: “Doesn’t matter. If I rule out as irrelevant, you won’t agree; you would fight with me. Therefore, I am putting all these questions together.”<sup>304</sup>

However, the Chairman may not agree to the questions being taken up together if there is objection or according to him the questions are not on an identical subject.<sup>305</sup>

A member requested for Chairman’s permission to put three questions together standing in his name at nos. 39, 40 and 51, as they related to one and the same subject so that ‘they may be answered all together and there will be less of supplementaries.’ The Chairman did not agree stating, “They are generally put one after the other.”<sup>306</sup>

When a member suggested that another question standing at the tenth place in his name and dealing with the same matter be clubbed together, the concerned Minister pointed out that they were different and, therefore, be taken up separately. The Chairman agreed.<sup>307</sup>

A member requested that three questions be clubbed together “so that members could take up this very important issue and get satisfactory answers.” When the Chairman asked whether members agreed, some members did not. The Chairman, therefore, observed, “They all relate to the LIC, but the subject-matter appears to be different.”<sup>308</sup>

The Chairman suggested that a question standing at no. 9 could be clubbed with no. 1. Some members stated that it was a different

question. The Chairman, thereafter, agreed to take it up separately. Another member suggested that the Chairman's earlier decision regarding the clubbing was right. The Chairman said, "I have revised my judgement."<sup>309</sup>

On an occasion, a member suggested that a question standing at no. 15 could be clubbed with question at no.1 as they were related to one and same subject. The Chairman, however, did not give his permission and stated that question standing at no.1 be allowed to be answered first. The Question Hour then proceeded with answering of supplementaries on the question standing at no. 1.<sup>310</sup>

On another occasion, when the Chairman called question standing at no. 342, a member requested that question at no. 348 may also be taken with that as both were on the same subject. The Chairman did not agree stating "We just take them in the same order in which they are listed. This is the result of a ballot. The ballot results would be followed." When the member again requested, the Chairman observed, "No, it won't be fair."<sup>311</sup>

### **Supply of copies of answers to questions**

Answers to starred questions are given orally on the floor of the House. It is an established practice not to supply copies of answers to questions in advance.<sup>312</sup> As early as in July 1952, members raised the matter regarding supply of copies of the statement proposed to be laid on the Table of the House in answer to questions to enable them to understand the answers and put supplementary questions thereon.<sup>313</sup> The Chairman referring to the practice in the other House stated that copies of the statement would be placed half-an-hour earlier in the Notice Office.<sup>314</sup>

The issue was again raised in 1968. During the discussion it was pointed out that under the procedure a Minister could make changes in the answer to a question, which he had a right to do, till he stood up to give his oral answer, by that time he might receive some latest information or he might consult some document at the last minute and all this could make material difference to his answer. Hence, if answers were supplied in advance to members, besides diminishing the liveliness of Question Hour, the Ministers would thereby be put to great embarrassment. The Chairman stated that he would refer the matter to the Committee on Rules.<sup>315</sup>

The Committee on Rules considered the matter and recommended that one set of answers to all the starred questions included in the list of questions for the day should be kept in the Notice Office by 10.30 a.m. for perusal by the members. However, these answers would be considered

confidential and would not be treated as final till the questions were actually answered in the House.<sup>316</sup> The recommendation was implemented since the commencement of 109th session by a direction of the Chairman.<sup>317</sup>

The present practice is that eleven sets of answers to all the starred and five sets of answers to all the unstarred questions included in the lists of questions for the day are kept in the Notice Office by 10.00 a.m. every day for perusal by the members with a stipulation that these answers would be considered confidential and would not be treated as final until actually given in the House or deemed to be laid on the Table of the House.<sup>318</sup> For convenience, answers of the first five starred questions are also displayed on the Notice Board in the Outer Lobby.

When a statement is to be laid on the Table in answer to a question for oral answer or where reference is made to an answer to the previous question, copies of the whole answer containing the statement to be laid or the answer to the previous question as the case may be, are made available to the members concerned one hour in advance in order to enable them to study the same for asking supplementaries.<sup>319</sup>

On a point of order, a member pointed out that the answer to a question referred to a number of questions answered earlier in 1980-81 which were not available with him at that time to put supplementaries. The Chairman suggested that if reference was made to some replies given to questions put earlier, those replies be put as an annexure and laid on the Table of the House for the members to see.<sup>320</sup>

A member other than the one who has tabled the question may also be supplied a copy of the proposed statement subject to availability of spare copies. If for any reason such a statement is not laid on the Table or the answer is not given or the contents thereof are altered by the Minister while answering the question in the House, the original statement or answer is not made public.

### **Answers to questions by Ministers**

Whenever the answer to a starred question for oral answer is long, it should be laid on the Table of the House so as to save the time of the House to cover more questions during Question Hour.<sup>321</sup>

On an occasion when in reply to a supplementary question regarding the heroes of the national freedom struggle, the Minister stated that it was a long list, the Chairman directed the Minister to lay it on the Table of the House.<sup>322</sup>

When a member, who had not got a copy of the proposed statement insisted that the Minister be asked to read it, the Chairman observed:

"There is nothing wrong in asking the Minister to read the statement but we will be wasting so much time of the House and because of it only fewer questions would be taken up. Therefore, I would like to appeal to the members not to insist on long statements being read out." The Chairman also stated that he had no objection, if the sense of the House was that the statement must be read out by the Minister. Thereafter, some members stated that the statement need not be read. After some points were made by members, the Chairman requested the Minister to give a gist of what was there in the statement. The Minister pleaded his inability to give the gist as the statement was too long and he could read it out. Later on, however, he gave the gist.<sup>323</sup>

On an occasion when a Minister gave a long reply to a question, before inviting supplementaries thereon, the Deputy Chairman observed, "I have to draw the attention of the Treasury Benches that the answers should not get longer and longer. If the answers are inclined to be long, they must come in the form of statements to be laid on the Table of the House. There must be more time left for members to ask supplementaries."<sup>324</sup>

On another occasion, the Minister laid a statement on the Table in reply to a question. The member in whose name the question stood protested saying that it was a six-line statement and could well have been read out by the Minister for the benefit of other members who might also like to ask supplementary questions and they were being deprived of their inherent right to ask questions. Thereafter, the Chairman directed the Minister to read the statement observing, "If it is a long answer it can be laid on the Table of the House. A short answer may be read out."<sup>325</sup>

When a Minister read out a very long reply to a question and Question Hour was about to be over, the Chairman, *inter alia*, observed, "...it is the rule in this House as well as in every Parliament that if the answers are long, they should be placed as statements on the Table of the House so that the members can read the same." The Chairman directed the Minister to follow this rule carefully in future.<sup>326</sup>

Pursuant to the above observation made by the Chairman, the Secretariat sent memorandum to Ministries/Departments of the Government of India requesting them to issue directions to all concerned that "whenever the reply to a starred question exceeded 5 or 6 lines or contained statistical information it should invariably be laid on the Table of the House in the form of statement in answer to that question."<sup>327</sup>

However, on later occasions also, the Chairman had to intervene to advise the Ministers to put long answers in the form of statements.<sup>328</sup> For instance, on an occasion the Chairman observed :

... there are people who err on both sides. Sometimes people lay very short statements on the Table of the House and some people go on reading long statements. Therefore, you must observe the rule. I am giving this direction that small statements must be read and long statements must be placed on the Table of the House.<sup>329</sup>

Answers to questions orally given in the House on any date are printed in the day's proceedings under the heading 'Oral Answers to Questions', while answers to questions for written answers, together with answers to such of the starred questions as have not been orally given in the House, are printed in the proceedings under the heading 'Written Answers to Questions'.

On an occasion, a member asked the question listed in his name but the answer thereto was not read out by the Minister. The question, however, was treated as starred question and answer was printed with a footnote to that effect. The reason for this, as explained by the Chairman before declaring Question Hour over was, the Minister took one minute to decide whether the question should be answered or not. Obviously, he did not want to answer (since Question Hour was nearing the end).<sup>330</sup>

In the proceedings, answers to questions are shown in the name of the Minister who actually replies on the floor of the House. Written answers to questions as also replies in respect of such of the questions for oral answers as are laid on the Table are shown in the name of the Minister indicated in the replies.

#### **Unsatisfactory reply to question**

A member sought the protection of the Chairman in order to ensure that the Minister gives reply to each part of the question. He pointed out "so far as members are concerned, we make efforts to frame our questions in Part a, b and c, etc. but the replies are generalised. In part (b) the question was: since when are these posts lying vacant? Now this has remained totally unanswered... I think there should be some efforts on the part of the Ministry to reply pointedly to the questions."<sup>331</sup>

During the course of examination of a complaint of breach of privilege arising out of the answer to a Parliament question, given during the 190<sup>th</sup> Session the Chairman observed that much confusion could have been

avoided if the Ministry had answered each part of the question separately and clearly. As a follow up action an O.M. to this effect was issued on 25 October 2000 to the Ministry of Parliamentary Affairs to bring to the notice of all the Ministries, the direction of the Chairman. The Chairman has directed that answers to all questions in the Rajya Sabha shall be specific and complete and each part of the questions or each item of information asked for therein shall be answered separately and if the Chairman is satisfied that it does not fulfill this condition, he may direct the Minister to give a complete answer to each part of the question.<sup>332</sup>

Whenever a complaint is received from any member regarding unsatisfactory reply to his/her question, the same is forwarded to the concerned Minister drawing his attention to the aforesaid direction *vis-a-vis* impunged reply.

On an occasion, a member complained against the misleading reply given by the Minister of Railways to his unstarred question no. 4786 of 18 May 2012. The Ministry of Railways, on receipt of complaint by the member regretted the incorrect reply given on the question and agreed to lay a correcting statement to amend the reply. However, the member expressed his dissatisfaction over the response of the Ministry and demanded that the matter may be sent to the Committee of Privileges for suitable action. The correcting statement was laid on the Table of the House on 19 December 2012.

### **Ministerial responsibility during Question Hour**

When a question is put for oral answer, the concerned member, when called by the Chairman, rises in his place and asks the question.<sup>333</sup> It is, therefore, necessary that there must be a Minister present in the House to answer it. Although rules relating to starred questions do not contain a provision unlike the rule relating to short notice questions that “the Minister concerned shall give a reply immediately,”<sup>334</sup> certain conventions regarding the presence of Ministers in the House have developed and one of them is that the concerned Minister should be present in the House for answering the questions on the allotted day. The very purpose of allotting a day to a Minister appears to secure his attendance in the House for answering the questions addressed to him. According to the practice whenever a Minister goes out of Delhi on official business or otherwise, he is required to inform the Chairman in advance and intimate him the arrangement made by him to attend to his business including questions in the House during his absence.

In this context it may be mentioned that on an occasion when a Minister who was not responsible for the subject-matter of a question,

voluteered to reply on behalf of another Minister who was responsible and present in the House, the Chairman ruled:

...it has been the practice...that Ministers send a request that some other Minister may handle the question in the Question Hour on their behalf when they are not in the House. This practice has become inveterate and has been followed not only in the past but also by me. Normally this practice applies to a Ministry where there is no other Deputy or a Minister of State available to take the floor...There is no question of joint responsibility as such because that way you can send not one Minister but five Ministers because they are all jointly responsible. They will say that any Minister who is present in the House may be allowed to answer questions...Joint responsibility cannot go that far. Joint responsibility will allow one Minister to take the place of another provided there is no other Minister in the Ministry who can take the place.

The Chairman, however, stated that since the Minister was prepared, he might, with the permission of the House, be allowed to answer but, in future if another Minister was available in the Ministry and was present in the House, he should answer and nobody else.<sup>335</sup>

On an occasion, when both the Ministers in the Ministry of Commerce were absent, another Minister was replying on their behalf. At one stage a member pointed out that one of the Ministers should have been present. The Chairman stated that the rules permitted one Minister to answer on behalf of another.<sup>336</sup>

On another occasion, one of the supplementaries asked to a starred question no. 263 listed against the Minister of Power was replied by the Minister of Coal.<sup>337</sup>

There have been occasions when written replies to starred questions were received in the name of the Minister to whom they were originally addressed but supplementary replies to those questions were given by some other Ministers. This happened despite the fact that the Ministers to whom the questions were originally addressed were present in the House.<sup>338</sup>

### **Correction of answers to questions**

When the reply to a question has been given on the floor of the House or laid on the Table of the House and subsequently it is found by the Minister that the reply furnished by him is incorrect, the Minister concerned has in such cases either to make a statement if the answer relates to a starred or supplementary or short notice question or lay a statement on the Table of the House if the answer relates to an unstarred question, to correct his earlier reply.

There are instances where corrections of inaccuracies in supplementary questions arising out of starred questions have been made.

On an occasion, the concerned Minister made a statement correcting the reply given in the Rajya Sabha on 18 March 2008 to supplementary question arising out of the answers to a starred question.<sup>339</sup>

On another occasion, on 22 February 2011, a member raised discrepancy of facts in reply given to a supplementary question. Thereafter, when the facts verified and inaccuracy confirmed by the Ministry the concerned Minister agreed and made a statement correcting the reply.<sup>340</sup>

Before 1982, it was the practice that the Minister had to make a statement on the floor of the House for correcting his reply to any question—whether starred, unstarred, supplementary or short notice. In February 1982, the procedure was revised under a direction from the Chairman in respect of a correction to be made in a reply to an unstarred question. The direction which was published in a Parliamentary Bulletin stipulated that the concerned Minister would henceforth lay a statement correcting an answer to an unstarred question instead of reading (or making) a statement which was the prevalent practice.<sup>341</sup> The reasoning behind the issue of the direction was that while the answers to unstarred questions were deemed to have been laid on the Table of the House at the end of Question Hour by the concerned Minister, the correcting statement was being read out in the House. It was observed that lengthy correcting statements were being made by Ministers quite frequently and so the time of the House would be saved if such statements were allowed to be laid on the Table of the House instead of being made on the floor of the House.<sup>342</sup>

On 25 February 1982, when the concerned Minister laid on the Table of the House a statement correcting answer to an unstarred question, a demand was made that the statement should be read out. The Deputy Chairman invited the attention to the Chairman's direction issued on 17 February 1982. Some members expressed their views on the matter and the Deputy Chairman explained the background in which the direction was issued.<sup>343</sup>

However, thereafter there had been an occasion when in deference to a demand, the Minister was asked to read the statement correcting an answer to an unstarred question with the Deputy Chairman observing, “It was only for today.”<sup>344</sup>

When a Minister wishes to correct any inaccuracy in the reply given by him to a question, he gives notice of his intention to do so to the Secretary-General and the notice is accompanied by a copy of the statement

which he proposes to make or lay on the Table. Thereafter, an item is included in the list of business ordinarily for the day the Minister has his questions or the day indicated by the Ministry. The item appears immediately after the item ‘Questions’. The copy of the statement is also made available to the concerned member in the Notice Office half-an-hour in advance of the sitting of the House.

On the appointed day, when called upon to do so, the Minister makes the statement in the House or lays a copy of the statement on the Table of the House, as the case may be. The member in response to whose question the earlier answer was given and which is sought to be corrected by the Minister may be allowed to seek a brief clarification after the statement is made<sup>345</sup> and a supplementary question on the correction may also be permitted at the discretion of the Chairman.<sup>346</sup>

When a member wanted to ask a supplementary question on the correcting statement, Chairman observed, “Generally it is not done. But there are exceptions when a Minister makes one statement and has to make another. Certainly in those cases I would like to give an opportunity to members to put a question.”<sup>347</sup>

Ordinarily, the statement correcting the answers should be made/laid as early as possible. The matter about the delay in doing so has been raised by members from time to time, although there have been instances when Ministers have corrected replies immediately at the end of Question Hour<sup>348</sup> or sometime later on the same day when the answer was given.<sup>349</sup>

When a Minister wanted to lay a statement correcting the reply given in the Rajya Sabha to an unstarred question after one and a half years, a member raised a point of order regarding the delay. The Chairman observed, “There is inordinate delay. And the House expects the Government not to have this delay because any correction to an answer, after so much time, will be a mockery...”<sup>350</sup>

Similarly, a Minister wanted to lay a statement correcting the reply given in the Rajya Sabha to an unstarred question after three weeks and not on an answer day for that Ministry, a member raised a point of order regarding the delay in laying the statement and also not doing so on the date of the answer of the concerned Ministry. This followed the following observation by the Chairman:

The corrections should be done on time and corrections should be done on the date of answer of questions relating to the Ministry concerned.<sup>351</sup>

A private member may also seek the permission of the Chairman to correct an inaccuracy.

A member submitted that on the previous day, he had asked a supplementary question about a cartoon which was published in a Delhi newspaper. He said that he had not seen the cartoon properly and made a mistake in understanding it. He requested the Chairman that his supplementary question be expunged. The Chairman ruled that the member's statement would go on record.<sup>352</sup>

### **Withdrawal or postponement of questions**

A member may, by notice given at any time before the sitting for which his question has already appeared on the admitted list of questions, withdraw his question, or postpone it to a later day.<sup>353</sup> The question can also be withdrawn if the member makes a statement to that effect in the House when his question is called by the Chairman.<sup>354</sup>

On request of a member, his unstarred question no. 21 slated for reply on 5 August 2013 was withdrawn from the list of questions.<sup>355</sup>

When a member desires postponement of his question, the date to which it is to be postponed, has to be specified by the member in the notice and on such later day, provided it is a day allotted to the Minister to whom the question is addressed, it is placed on the list after all the questions which have not been so postponed.<sup>356</sup>

On request of a member, his starred question no. 171 slated for reply on 8 March 2011 was postponed and placed as the last question in the starred list for 15 March 2011.<sup>357</sup>

On request of a member, his starred question no. 41 slated for reply on 13 August 2012 was postponed and listed as the last question in starred list for reply on 27 August 2012.<sup>358</sup>

A question may also be postponed by the Chairman on the floor of the House and such a question bears the same position in the subsequent list of questions for oral answers as it had in the previous list from which it was postponed, unless directed otherwise by the Chairman.<sup>359</sup>

A starred question which is postponed by the member at the request of the Minister made through the Secretariat has the same position in the subsequent list of questions for oral answers as it had in the earlier list from which it was postponed.<sup>360</sup>

The following are some of the typical instances when the Chairman had postponed the questions on the floor of the House.

The Chairman announced that he did not want to take up a question because the Minister concerned was not very well that day and that the same would be taken up on another day.<sup>361</sup>

When a question was passed over, the concerned member inquired about it. The Chairman informed him that it was postponed to a later date. When the member wanted to know the reason, the Chairman observed, "My duty is to admit questions. So far as the duty of answering is concerned, it depends upon several Ministries that are involved." When the member sought Chairman's ruling as to how a question could be postponed without the consent of the member, the Chairman observed, "...on account of circumstances they had to arrange the question...which of the Ministries was to answer was the issue..."<sup>362</sup>

During a supplementary on a question, a member suggested that the question be postponed. The Chairman, agreeing suggested that the question be taken up as first for further supplementaries on the next day when the Cabinet Minister concerned would be present.<sup>363</sup>

The Minister of Foreign Trade had sent advance copies of his replies to a starred question. When the Minister rose to answer the question orally, he replied that the information was being collected. Members felt agitated about it. The Deputy Chairman, therefore, postponed the question and stated that the question would be treated as not answered.<sup>364</sup>

On an occasion, a member complained that a copy of the answer to his question and the statement that was to be laid on the Table of the House had not been supplied to him. The Chairman postponed the question. After Question Hour was over, the Chairman explained that there was confusion in respect of the question. The member had thought that there was a statement laid on the Table of the House, but it was actually an answer. Probably the Minister could have read it. The Chairman did not want the time of Question Hour to be taken for a discussion on that and, therefore, he postponed the question.<sup>365</sup>

In reply to a part of the main question, the Minister's statement laid on the Table of the House stated that copies of a particular report were available in the Parliament Library. In the course of supplementary questions objection was taken to that reply. The Chairman observed, "Members want that their questions should be answered and what they say is correct also. You cannot tell them that they should go to the Library and see the report. You must come up with answers." The Chairman, therefore, postponed the question to the next week.<sup>366</sup>

During the course of supplementaries on a question regarding a committee on Jammu and Kashmir, when the Minister's reply did not appear clear, the Chairman postponed the question.<sup>367</sup>

Two questions regarding sugar were taken up together. At one stage the Minister in reply to a supplementary question stated that he would supply the information to the member concerned. The Chairman stated

that the Minister ought to have an answer with him. With the consent of the Minister the Chairman postponed the question (to be taken up as the first question on the postponed day).<sup>368</sup>

On a starred question regarding purchase of wagons from Wagon India Limited there were spate of supplementaries to which the Minister could not give a satisfactory reply. The Chairman, observing that there was a confusion which had to be cleared, postponed the question.<sup>369</sup>

In reply to a starred question regarding newsitem about international business transactions, the Minister concerned stated that no copy of the report was available with the Government and the Government was procuring a copy thereof. The Chairman postponed the question.<sup>370</sup>

On an occasion, however, immediately after Question Hour a member invited the Chairman's attention to a question listed that day for answer by the Minister of Home Affairs. The member suggested that he had addressed the question to the Prime Minister and, therefore, no answer to that question should be laid on the Table of the House; it should be treated as if the question had been postponed so that he could give notice of the question addressing it to the Prime Minister. The Chairman declined the request observing that the rule did not allow it.<sup>371</sup>

On an occasion, on the request of a member, unstarred question no. 1186 slated for answer on 6 March 2000, was postponed for reply on 8 May 2000. On 8 May the question appeared in unstarred list with certain modification as unstarred question no. 4541. However, later on it was withdrawn by the member.<sup>372</sup>

On 27 February 2013, the Minister in reply to starred question no. 42 stated that "the information is being collected and will be laid on the Table of the House". On this, members demanded that the question may be postponed, to which the Chairman agreed and the question was postponed and listed as starred question no. 122 (at the same 2<sup>nd</sup> position) for answer on 6 March 2013.<sup>373</sup>

### **Transfer of questions**

Previously, the practice was to allow transfer of questions from one Ministry to another on a written intimation received from the Ministry accepting the transfer of the question. This practice created a lot of avoidable inconvenience to the members as well as the Chairman. Often the matter of transfer of a question was raised on the floor of the House. On 16 February 1968 for instance, objection was taken to the transfer of a starred question on the review of fertilizer policy from the Minister of Petroleum and Chemicals to whom it was originally addressed by the members

to the Minister of Food, Agriculture, Community Development and Cooperation.<sup>374</sup> The Chairman after explaining the circumstances under which the transfer was effected, gave an elaborate ruling:

It is not for the Chair or the Secretariat to take responsibility in the matter of transfer of questions. Under our rules, a question has to be addressed by the member to the Minister, who is responsible for the subject matter of the question. Hon'ble members are aware that the various subjects are allocated to the different Ministries and that a printed pamphlet, popularly called the subject pamphlet, is circulated to the members by the Rajya Sabha Secretariat to inform them about the various subjects for which each Ministry is responsible. By and large, members address the question correctly to the Minister, who is responsible for a particular subject, but sometimes questions are addressed to a wrong Minister. In such cases, the Chair or the Rajya Sabha Secretariat does not take the responsibility of transferring the question to another Minister. The practice in this behalf in both the Houses of Parliament is that if a question is wrongly addressed to a Minister, the Parliament Secretariat is informed by the Minister that the question is being transferred to another Minister within whose purview it falls. In such cases, the transfer of the question in the name of the appropriate Minister is effected by the Parliament Secretariat only on receipt of an intimation of acceptance from the Minister to whom the question has been so transferred. I may perhaps add that sometimes it so happens that the Minister to whom a question is addressed wants to transfer it to another Minister who refuses to accept such transfer. In such a case, the Parliament Secretariat does not transfer the question and it is put down for answer by the Minister to whom the question is addressed by the member. The practice in the House of Commons in the U.K. is also the same.

After quoting from a book “*Questions in Parliament*” by Chester and Bowring to explain the practice in the House of Commons regarding transfer of questions, the Chairman concluded:

To sum up, (1) a member should take care to see that he addresses his question invariably to the Minister who is responsible for the subject matter thereof, and (2) the transfer of a question from the Minister to whom it is addressed by the member to another Minister will not normally be effected by the Rajya Sabha Secretariat unless written intimation is received from the Minister accepting the transfer.<sup>375</sup>

The current practice is that a question once printed in the list of questions is not transferred on the request of the Ministry concerned. The transfer of a question from one Ministry to another is normally effected before a list of questions is finalised and sent to the Press for printing.

On the recommendation of the General Purposes Committee, the Chairman has issued the following direction:

After a question is admitted and printed, no transfer from one Ministry to another shall take place. However, if a request for the transfer of a question from one Ministry to another is made before it is admitted and printed, the Chairman shall be the final authority to decide in the matter.<sup>376</sup>

### **Questions of absent members**

Before 22 February 2010, when all the questions in the list of questions for oral answers had been called but Question Hour was yet to be over, the Chairman called again any question which had not been asked by reason of the absence of the member in whose name it stood and also permitted a member to ask a question standing in the name of another member, if so authorised by him.<sup>377</sup> In other words questions not asked in the first round were called again in the second round if time permitted<sup>378</sup> so that if any member who was absent in the first round and came to the House in the meantime, might have a chance to put his question.<sup>379</sup>

On an occasion, a member who was late by a few minutes and missed the chance to ask his question when called, requested the Chairman that his question regarding family planning which was very important be taken up first if the House agreed. The Chairman observed:

“The difficulty will be that everyday somebody will be absent and if we are to take the permission of the House, it will create an awkward situation which I do not want.”<sup>380</sup>

Questions of members who were absent and who had authorised other members to ask the questions on their behalf were also taken up at the end, *i.e.*, at the second round, if time permitted.<sup>381</sup>

A member was authorised by an absent member to put three starred questions on his behalf and they were asked in the second round.<sup>382</sup>

The authority given by a member to ask a question in his absence had to be in writing and specify the question and date on which it was to be asked. Letters of authority were required to be sent to the Secretariat at least a day in advance of the date on which such a question had been put down for answer so that the Chairman was apprised accordingly. The Chairman, had on many occasions, not permitted members to ask questions on behalf of other members who were absent, in the absence of such authorisation.<sup>383</sup>

---

When the Chairman asked a member who was to put a question on behalf of another member who was absent, whether he was authorised to do so, the member replied in the affirmative. The Chairman, however, stated that the letter of authorisation should have been given to him and proceeded to the next question.<sup>384</sup>

When a member stated that it was within the power of the Chairman to permit a member to put a question in the absence of the member in whose name the question stood, the Chairman stated that he could not do it unless the member was authorised.<sup>385</sup>

When a member stated that there was sufficient time and the next question could be taken up as the House was anxious to hear the answer to it, the Chairman observed, "I know but the gentleman who put the question is not here and he has not authorised any one." When the member stated that the Chairman was authorised, the Chairman answered in the negative.<sup>386</sup>

A member stated that in the absence of another member, the question be put by the Chairman so that many misunderstandings which had been raised by that question could be cleared, it was the Chairman's privilege and he could ask the question which was very important. The Chairman observed, "How can I put the question? I do not think I can."<sup>387</sup>

On an occasion, the Vice-Chairman was in the Chair and when a question standing in his name reached for answer, he passed over the question and called the next one. A member sought the Chair's permission to put that question. Another member stated that when a member was present in the House and a question appeared in his name the House should not be denied the opportunity of discussing that question. He, therefore, sought Vice-Chairman's ruling on the point. The Vice-Chairman observed, "You cannot force any member, even though present in the House, to put a question against his wishes." Written answer to the question was, therefore, shown in the printed proceedings.<sup>388</sup>

There had, however, been instances of earlier years when questions of absent members had been permitted to be asked in the first round itself.<sup>389</sup>

A question of an absent member was permitted to be asked in the first round but upon being so authorised.<sup>390</sup>

In the absence of any authorisation from the member who is absent, his question was treated as unstarred and printed along with its answer in the proceedings of the sitting of the day for which it was put down.<sup>391</sup>

There are however, instances when questions of absent members were permitted in the first round without any authorisation.<sup>392</sup>

If, however, on a question being called it was not put or the member in whose name it stood was absent, the Chairman, at the request of any member, directed that the answer to it be given.<sup>393</sup> Thus in appropriate cases the Chairman may, on a request by another member, direct that the answer be given to a question even if a member who has tabled the questions stated in the House that he does not want to put the question. This provision in the rules came up in the House for discussion on more than one occasion inviting the Chairman's ruling.

On 27 August 1968, when starred question no. 671 was called, the member concerned stated that he did not want to put the question. Thereupon, another member raised an objection that if a member present did not put his question, then other members would be deprived of the opportunity to put supplementaries thereon. The Chairman assured that he would look into the matter.<sup>394</sup> In his ruling given the next day, the Chairman, *inter alia*, observed:

I have since gone through our rules and precedents. Sub-rule(2) of rule 54 of our rules makes it clear that a member is entitled to state when his question is called that it is not his intention to ask the question and if he does so, according to our practice, the question is treated as withdrawn and is not printed in the Official Debates.

I would, however, also refer to sub-rule(3) of rule 54... This sub-rule provides that if on a question being called it is not put, the Chairman, at the request of any member, may direct that the answer to it be given. Thus, in appropriate cases, the Chairman may, on a request by another member, direct that answer be given to a question even if the member, who has tabled the question states in the House that he does not want to put the question. I must, however, make it clear that this direction from the Chair will be given in exceptional cases only and not as a matter of course.<sup>395</sup>

That question, however, was treated as withdrawn.

Later, on a similar occasion, when the members, who had tabled starred question no. 321 were absent on 26 April 1995 and some other members submitted that the Chairman should request the Minister of Home Affairs to reply the question, some points were raised regarding the interpretation of rules 54(3) and 55. The Chairman giving a ruling on 28 April 1995, referred to a precedent when on 22 July 1952, the then Chairman Dr. S. Radhakrishnan had permitted to put the question

on behalf of a member in whose name the question stood in the list of questions for oral answers and supplementary questions were also asked thereon. The Chairman also cited the ruling of the then Chairman, Shri V. V. Giri given on 28 August 1968 (quoted above) and observed:

The rules on the subject are clear and are reinforced by precedents in the House. They give discretion to the Chairman to direct that question be answered in case it is not put or the member, in whose name it stands, is absent. But this discretion from the Chair will be exercised in very exceptional cases.

In conclusion, the Chairman also stated:

I also make it clear and urge that a member whose question is admitted is expected to be present in the House to put the question unless the member is unable to do so for unavoidable reasons.

Thereafter, when a member requested the Chairman to fix a date for that question, the Chairman declined, saying that there was no precedent for that. The question, therefore, was treated as unstarred and answer thereto was deemed to be placed on the Table of the House.<sup>396</sup>

On an occasion, when the questioner was absent and some members requested the Deputy Chairman to allow the question to be answered, the Deputy Chairman denied the permission by saying "...when the questioner himself is not present in the House, then we will be unnecessarily wasting the time of the House. The question was put by two hon'ble members. Both of them are not here. If they could not be in the House, they should not have put the question."<sup>397</sup>

On another occasion, when starred question nos. 467 and 468 were called, the members concerned, though present in the House, did not respond to Chairman's call for asking the question. Another member asked for Chair's ruling on the issue and the Chairman gave the following ruling:

"When a member is present in the House and he did not register his presence with regard to the procedure for asking the question, the Chair has no option but to assume that the Hon'ble member is not present in the House for the purpose of Question Hour".<sup>398</sup>

The questions, therefore, were treated as unstarred and answers thereto were deemed to be laid on the Table of the House.

An amendment to rule 54(3) has, however, been made to allow the questions of absent members to be taken up for oral answers. The amendment to rule 54(3) provides that:

If on a question being called it is not put or the member in whose name it stands is absent, the Chairman shall direct that the answer to it be given.

Hence, now, if the Chairman calls a question and the member concerned is absent, the Chairman directs that the answer to it be given by the Minister. He also permits supplementaries to the question by three other members.<sup>399</sup>

The General Purposes Committee in its meeting held on 27 July 2009, while discussing the Memorandum on ‘Improvement in the output of Question Hour’ took note of the issue of a member absenting himself/herself from the House during the Question Hour, when his/her name was called by the Chair to put the question included in the starred list. Members took serious exception to the fact that due to absence of the concerned member, sometimes a significant question remained unanswered on the floor of the House thereby letting the executive go unscrutinised on a matter of public importance. They were strongly of the view that once a question has been included in the starred list, it becomes the property of the House and in the absence of the questioner, if a member present in the House is willing to raise that question, the Chairman should direct the Minister to reply to the question and allow supplementaries thereon as per normal practice. The Chairman observed that the relevant rules may be revisited, so that such questions could be taken up for answers at their own places in the list on the direction of the Chair. In this backdrop, the Committee on Rules discussed the issue in its meeting held on 25 November 2009 and suggested to amend rule 54(3).

### **Absence of questioners during Question Hour**

On certain occasions, the House faced a very peculiar situation owing to the absence of members, on a large scale, in whose names questions were listed for that day.

One day the Chairman called, question nos. 181 to 185 but the questioners were absent. He remarked, “I think we will finish the Question Hour very early today”. Thereafter, when question nos. 186 to 188 were called and the questioners were absent, the Chairman quipped, “If we finish all the questions, what shall I do”? First to twelfth questioners were absent in a row. Even the eighteenth question was orally answered. In the end the Chairman remarked, “Today we have almost completed the questions”.<sup>400</sup>

On an occasion, when a number of members in whose names questions were listed were absent, a member put forth a suggestion that those

members who remain absent should be black-listed for one week at least and they should not be on the ballot. The Chairman expressed his agreement to this suggestion by saying—"yes, I agree with you". When first ten questioners were absent in a row on that day, the Chairman quipped—"this is an extra- ordinary situation. I think the Parliament has dissolved itself". After the tenth questioner was called, the eighth questioner, who was absent when his name was called, turned up. Apprehending that the starred question list may get exhausted due to the absence of members, the Chairman permitted him to put down his question. After the eighth question was over and the sixth questioner sought the permission of the Chairman to put his question by saying that "Sir, I came at 11.04 am and by that time my name was called. My question no. was 506. I may be permitted, Sir". The Chairman gave the ruling that "in view of the exceptional situation which prevailed here I allow him". The seventeenth question was taken up for oral answer that day.<sup>401</sup>

There have been other occasions when twelfth<sup>402</sup> and fourteenth<sup>403</sup> questions were taken up for oral answers.

The Deputy Chairperson irked by the absence of questioners in the House one day expressed serious concern by commenting—"It is a sad part that the members who put question... Even the day before yesterday, I made this comment that any member who put a question should have the seriousness to be present in the House in the Question Hour; otherwise, it comes in the ballot and members prepare supplementaries and it is not fair..."<sup>404</sup>

On 26 November 2002, immediately after the Question Hour was over, the Chairman observed that since a lot of time and effort is involved in preparation of answer to a question, the member in whose name question is listed for oral answer, shall remain present in the House during Question Hour or in case of his/her inability to do so, he/she must either inform the Chair in writing or authorise some other member to ask the question on his/her behalf.<sup>405</sup>

### **Supplementary questions**

No discussion is permitted during the question time in respect of any question or of any answer given to a question.<sup>406</sup> However, any member when called by the Chairman may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given.<sup>407</sup> Supplementary questions should, therefore, be brief and confined to asking further information rather than making long speeches. As observed by the Chairman, "Everybody should put only questions... and no speeches, as far as possible, should be made. Some questions tend to be rather long. But I think it always adds to efficiency if questions are brief

and the answers are also brief. That way we can deal with many more questions".<sup>408</sup>

Successive Chairmen have cautioned against long prefatory supplementaries and impressed upon members to be brief. For instance, once the Chairman remarked, "It is very difficult for me to distinguish between a speech and a question. The style of this House is such that there are many speeches put in the garb of questions."<sup>409</sup> At one stage the Chairman ruled that no speech should be made at the question time before a question is put.<sup>410</sup> On an occasion, the Chairman observed:

I will discourage anybody from making speeches during the Question Hour. So far as the Question Hour is concerned, we should have only questions and answers and I am against the idea of any member making a speech and then following it up with a question.<sup>411</sup>

On another occasion at the commencement of Question Hour, the Chairman made the following announcement:

Before I call upon the hon'ble members to put their questions, may I request them that if any supplementary is to be asked, they will first formulate the supplementary question and not indulge in a speech because a speech is not needed for the purpose of asking supplementaries. If a speech is made, I will be compelled often to rule out the question.<sup>412</sup>

Again, the Chairman made the following announcement before the start of Question Hour on some other occasion:

I have only one request to make to hon'ble members, and that is, to be as brief as possible in framing their questions. In fact 150 words is the limit in the rules and one minute probably is required to frame a proper question. If hon'ble members take five or seven or ten minutes, I shall let them go on because I do not want to hurt their feelings, but then I shall probably bear them in mind and not call upon them for sometime to come. So please take note. Also don't try to butt into every question. Choose your question because I want to give a chance to as many members in the House as possible and to get down to at least 15 or 16 out of these 20 questions.<sup>413</sup>

On 25 November 1980, in the context of a member's remark that only three questions were covered and members should be stopped from making long speeches (during Question Hour) the Chairman stated, "I will not be able to go on to the second question if from first to the second is a journey to be travelled over the noises made by the hon'ble members who wish to ask questions having not first thought of the questions while sitting here".<sup>414</sup>

On 10 July 2009, the Chairman made the following observations:

.....if every supplementary question is going to be a speech, then perhaps, not even one question will be answered. It is for the members to decide whether they want other questions to be answered. So let questions be questions.

During the course of deliberations, it was agreed that supplementary questions asked by members, should be brief, precise and focused. It was also suggested by some members and agreed to by the Chairman that the answers given by Ministers should also be relevant and to the point of the supplementaries raised by the members.<sup>415</sup>

Silimilarly, on the 15 July 2009, the Chairman observed:

Hon'ble Members, Question Hour is meant only for asking Questions and there is no place for general debate in it. Let us stick to the procedure, if you need any clarification through supplementary question based on answer to the question then you ask and Minister would reply.

The Chairman added:

If the procedure for questions and answers is not adhered to, then Chair has no other option than to leave that question and go to the next question.”

The Chairman further observed:

See, what I am suggesting is in the interest of all so that the questions that have been asked may be answered properly. If you want debate on that then there is another procedure for that and that procedure can be followed. But if you want a general debate during Question Hour then nothing will happen.<sup>416</sup>

Conditions of admissibility applicable to a main question are also applicable to a supplementary question and the Chairman disallows any supplementary question, if, in his opinion, it infringes the rules regarding questions. For instance, the Chairman has ruled out a supplementary question if it has not arisen out of the main question<sup>417</sup> or if it asks for a policy matter.<sup>418</sup>

On 18 December 2008, the Chairman observed that supplementaries are intended to follow from the main question.<sup>419</sup> Similarly on 15 July 2009, the Chairman observed that “the supplementary question must relate to the answer given.”<sup>420</sup>

On another occasion on 31 July 2009, the Chairman directed that in view of the question being related to Rajasthan, only supplementaries relating to the State would be allowed.<sup>421</sup> On yet another occasion on 9 December 2009, the Chairman ruled:

Ask the supplementary relating to the subject; I don't think the practice of opening up is particularly helpful. I am afraid, I have to rule this out of order because it does not pertain to the question.<sup>422</sup>

There had been instance when in order to emphasise precise replies to the supplementaries asked, the Chairman, while limiting the reply to a supplementary being answered by the Minister of Commerce and Industry on 4 August 2010, observed:

Could you stick to the question and answer only?

XXX                    XXX

We will not expand the scope of the question.<sup>423</sup>

On another occasion, at the beginning of the Question Hour on 13 August 2010, the Chairman made the following observation:

Hon'ble members, it has been observed that during the Question Hour and while asking supplementary questions, attempts are, at times, made to raise matters that go beyond the scope of the admitted question. Members are reminded that supplementary questions should flow from the original questions. The supplementary asked should be **brief, specific, relevant and within the scope of the main question**. Members should seek information rather than give information or make suggestions for action. They should avoid prefacing their supplementary with an introductory statement.

Ministers are requested to give brief answers to supplementary questions and offer to provide details, if essential.

The Chair solicits cooperation of all members and Ministers in this regard so that maximum number of questions could be covered during the Question Hour.<sup>424</sup>

Similarly on 3 August 2011, the Chairman observed:

Supplementary questions must arise out of the main question and the answer given to the main question. It cannot be the subject of an open-ended debate. There are other avenues for such debates.<sup>425</sup>

The Chairman has also not permitted supplementaries or further supplementaries on grounds that the Government has promised to make a statement on the subject,<sup>426</sup> a discussion on the subject is scheduled,<sup>427</sup> the question could await the Budget speech,<sup>428</sup> or the subject has already been discussed earlier.<sup>429</sup> The Chairman has also ruled that except the supplementaries anything said without his permission would not go on record and the Minister need not take cognizance of interruptions so that more questions are covered.<sup>430</sup> As elaborated by the Chairman:

I have given strict instructions that anything which is said without the permission of the Chair should not go on record. There is a set rule to be followed during the Question Hour... This is a well-established practice. Otherwise, you will need as many reporters as the number of members here because some interruptions are coming from this side and some from that side. The Question Hour is very important. It is the time when we seriously want to know what is what from the Government. This Hour is not for opposition ... or the party which is the ruling party, it is something when we all want to know things and this we can do by putting short questions. We can put them in a nice way, and convey it to the Minister, but let it go on systematically. Otherwise, what happens is when we all move away from the point, the whole point gets lost. If any member wants to know something more from the Minister, he can ask a supplementary.<sup>431</sup>

On another occasion, when the Minister was replying to the supplementary raised by a member, it was contested by the Minister that the supplementary raised did not pertain to the main question, to which the member argued that his supplementary arose out of the main question. The Chairman subsequently observed:

Hon'ble members, if it is proposed to convert the Question Hour into an Argument Hour, then I would call the Committee on Rules and put a proposal before it. If the answer is unsatisfactory, if the answer is misleading, there are established procedures for taking up that matter - i.e. we, cannot have an argument going with people talking at each other all the time, and in that case we just will not be able to do any business.<sup>432</sup>

Supplementaries based on suppositions or assumptions are disallowed by the Chairman.

On 28 February 1984, during the question hour, a member asked a question regarding the search by the Income-Tax and Central Excise Departments in certain rooms of the Ashoka Hotel, Bangalore, on 27 December 1983, to unearth unaccounted money and gold in possession of some persons. Another member asking a supplementary said that some people kept booking the rooms in the names of others

but in actuality they themselves were staying there. He further expressed his doubt that there was an attempt to topple the Janata Government in Karnataka. The Chairman, disallowing the supplementary question, observed:<sup>433</sup>

I am afraid this question cannot be allowed. You are asking on suppositions which you are making for yourself that the room was in the name of 'A', but it was occupied by 'B', and, therefore, it should have been searched. The law does not allow it.

#### **Limit on the number of supplementaries and coverage of questions during Question Hour**

Although 15 questions are listed in the list of questions for oral answers, on an average just 5-6 questions are covered during Question Hour and the remaining questions get written answers only, without opportunity for any supplementaries thereon. Successive Chairmen and also the whole House have been exercised over the problem of low coverage of questions during Question Hour. The dilemma of the Chair in this matter has been expressed succinctly in a brochure as follows:

A notable feature of question time is the way in which the Speaker controls its pace. If he calls too many supplementaries the Minister will be put to a close scrutiny on a few questions, but the total number of questions answered will be small. If he calls too few supplementaries, more questions will be answered orally, but the Minister may be given too easy a passage. A balance has to be struck; and it is likely to be struck differently by different Speakers.<sup>434</sup>

As mentioned earlier, progress is sometimes achieved by the Chairman's periodic appeals to members to keep their supplementary questions brief or short, precise and pointed<sup>435</sup> and by checking a member who is either too lengthy or is using question time as debating time. So far as Ministers are concerned, a practice has been established that if they wish to give lengthy answers, they should lay the same on the Table of the House instead of reading them out in the House.

With a view to limiting the number of supplementaries on a question and thereby covering more questions during Question Hour, the Chairmen have introduced informal rules from time to time. For instance, the Chairman, Shri V.V. Giri, adopted a rule that for an important question not more than ten minutes would be devoted and for an ordinary question only five minutes would be allowed.<sup>436</sup> The Chairman, Shri M. Hidayatullah, introduced an eight minute rule per question.<sup>437</sup> The Chairman, Shri R. Venkataraman introduced a two minute rule whereby the questioner was given only two minutes for asking a supplementary.<sup>438</sup>

The matter of coverage of questions during Question Hour has been raised in the House on a number of occasions.<sup>439</sup>

When many members rose to ask supplementary questions on a question regarding minority community in East Pakistan, the Chairman observed:

I notice that members have not been able to appreciate my request made last time that they should impose on themselves some sort of a self denying ordinance on their curiosity because if I allow everybody who wants to put a question to do so, I will be able to take up not more than five questions. It seems I have not succeeded. I would next try to allow everybody to put a question so that members can experience how much business they can do.<sup>440</sup>

On an occasion the Chairman said that it was thirty-five minutes and only one question was finished, and asked, "Is it just?" He then observed:

I would also like to make it clear that so far as leaders of parties are concerned, I will be very strict in not allowing them to put more than two questions when they are questioners. Other members will have one supplementary each.<sup>441</sup>

On 20 November 1967, before calling the next question, the Chairman stated that the previous question had taken fifteen minutes and asked whether it was the opinion of the House that only four questions be taken up in one hour. Then he observed:

I would like to finish at least twelve questions a day, if not fifteen. If it is an important question, I will allow two important questions on each day for ten minutes and the other questions three minutes and a bit extraordinary five minutes. In that case there will be at least twelve questions.<sup>442</sup>

When several members stood up after a reply to a supplementary by the Minister, the Chairman made the following observations:

I would like to divide questioners into four categories. One is leaders of parties. In fact my suggestion and humble advice to leaders of parties is to allow their lieutenants to put questions during Question Hour .... Number two, there are persistent questioners, the same gentlemen, standing on every question. I do not know, and I fear if they begin standing in that way, I should omit them from certain questions. There are certain questioners who get up rarely and I certainly try to see how best I can accommodate them and avoid the persistent questioners ...<sup>443</sup>

The matter of coverage of questions again cropped up on 26 June 1980, in the context of a long reply to a question which a member felt, should have been placed on the Table of the House. The Chairman stated

that a meeting of Vice-Chairmen would be called to rationalise Question Hour. A member suggested that members from parties also be called.<sup>444</sup> Accordingly, a meeting of leaders of various political groups in the Rajya Sabha was held by the Chairman with a view to ensuring the maximum coverage of questions for oral answers and the following broad consensus was arrived:

- (i) Members may be requested to put their supplementary questions in brief and to the point without any preface or introductory remarks. The same rule should apply to Ministers while replying to the supplementaries.
- (ii) A member who has been permitted by the Chairman to put a supplementary question may not generally be given another opportunity during Question Hour on that day.
- (iii) The Chairman may, in his discretion, ask any member who raises his hand to put supplementary questions but he (the Chairman) is not obliged to permit every member who raises his hand to ask a supplementary question.
- (iv) The leaders of various political groups in the House should extend full cooperation to the Chairman in this regard.

It was also decided:

- (i) In case a question stands in the name of one member, two extra supplementaries; in case of two members one extra supplementary; in case of three members, no extra supplementary will be allowed on that question.
- (ii) At least ten to fifteen questions in the list of twenty questions a day be covered during Question Hour.

The above consensus was broadly endorsed by the Panel of Vice-Chairmen at a meeting held on 2 July 1980.

On 28 July 1980, at the commencement of Question Hour the Chairman announced that...It has been informally agreed that not more than six supplementaries will be allowed on any question because, otherwise, the others do not get a chance at all. He also explained how he would regulate the supplementaries.<sup>445</sup>

On 26 November 1980, at the commencement of Question Hour, the Chairman announced:

I shall not allow more than eight minutes for each question and at the end of eight minutes, which I shall time by a stop-watch, I shall stop it even in the middle of a question. And if any member

takes more than a minute to ask the question, I shall ask the Minister not to answer that question...<sup>446</sup>

On 17 December 1980, a member on a point of order, complained that not more than three questions could be covered in Question Hour. He alluded to the decision of the Chairman (Shri M. Hidayatullah) to apply eight minute rule (*i.e.*, one question to be concluded within eight minutes) allowing only one supplementary to one member so that more questions could be covered and he even brought a stop-watch for the purpose. Some controversy arose out of this but the Chairman closed the matter with these observations: "From tomorrow...at the seventh minute, this bell would be rung and on the eighth minute, in the middle of a sentence, I will stop anybody."<sup>447</sup>

As a measure to cover more questions during Question Hour, the Deputy Chairman did not allow seventeen members who had raised their hands to ask supplementary questions on the 'Condition of National Highways in Assam, Rajasthan and M.P.', as the question had already taken half-an-hour. When a member who was not allowed to put supplementary question said "I am leaving the House in protest", the Deputy Chairman said—"okay, you may leave because there are many people who have to put questions... there is a limit. You cannot have 30-40 questions on one question... do you think there are no other questions". Thereafter, while the next question was being answered, the Deputy Chairman ruled:

In the last question, 17 questioners could not put their questions. I have sent their names to the Minister with a request that he may write to all with regard to their queries. So, the 17 hon'ble members can send their queries to the Minister. I have already allowed nine members to put their queries only on one question and 17 more names were there. So, the Minister will reply.<sup>448</sup>

On an occasion, when some members wished to raise supplementaries, the Chairman observed that "the right to ask supplementary question is with the member whose question has been admitted. Everybody else has no right. It is a courtesy from the Chair."<sup>449</sup>

On another occasion, when a member repeatedly insisted that he should also be allowed to raise a supplementary question, the Chairman observed, "Supplementary is a matter of chance and courtesy. It is not a right."<sup>450</sup> Further, on the same day the Chairman again observed that "Supplementary Question is not a party right."<sup>451</sup>

A member permitted by the Chairman to put a supplementary question is not generally given another opportunity during Question Hour on that day. The Chairman may, in his discretion, ask any member who raises his hand to put a supplementary question but he is not obliged

to permit every such member to ask a supplementary question. Generally, the Chairman permits two supplementaries to the member in whose name a starred question has been listed and one supplementary each to three more members.

However, on an occasion, when the first questioner was absent, the second questioner was permitted to ask two supplementaries and in the meantime when the first questioner turned up he was allowed one supplementary. When identical questions are taken up together for oral answer on the floor of the House the questioner of the first question is allowed to put two supplementaries while the subsequent questioners are allowed to ask one each.<sup>452</sup>

During the course of the Question Hour on 25 November 2002, the Chairman observed that henceforth not more than two members may be allowed to ask supplementaries on a starred question, apart from the member(s) against whose name the question is listed so that maximum number of questions could be covered for oral answer.<sup>453</sup>

On 7 December 2007,<sup>454</sup> when the question which was listed in the name of two members was called, the first questioner was not present in the House. The Chairman permitted the second questioner to ask two supplementaries. In the meantime, the first questioner occupied her seat and got permission to ask only one supplementary.

Subsequently, to a decision taken in a Leaders' meeting convened by the Chairman on 11 March 2008, it was decided to permit only two supplementaries after the questioner member(s) had raised the supplementaries.<sup>455</sup>

On 14 March 2008<sup>456</sup> the first questioner, while asking his first supplementary was making a long statement, on which, the Chair asked him to be pointed and brief. However, he continued with his speech, and as a result the Chairman did not allow him to raise the second supplementary.

On 13 July 2009<sup>457</sup> when one member sought to ask two supplementaries at a time, another member brought to the notice of the Chairman that the member has got a chance to put two supplementaries. At this, the Chairman observed, "My point is very simple. There should be one supplementary at a time..." The member was permitted to put the same later after the Chairman got satisfied that he was raising only one supplementary.

When a member was asking supplementary question on 15 July 2009<sup>458</sup> the Chairman requested him to ask only one question. The member, however, went on with his second supplementary. Then the Chairman observed, "I would request the Hon'ble Minister to answer any one question whichever he prefers".

On 17 July 2009,<sup>459</sup> the Chairman observed that for supplementary question, the rule is that if more than one supplementary is asked by the same member, only one will be answered by the Minister concerned.

On 27 July 2009,<sup>460</sup> a member, who was the second questioner requested for raising second supplementary. However, the Chairman observed:

You are only associated with the question. You did not ask it. I am afraid, if the main questioner is absent, the right cannot be delegated to someone else.

On 29 July 2009,<sup>461</sup> a member who was the second questioner put two supplementaries. The Chairman directed the Minister to answer the first part only.

On 7 August 2009,<sup>462</sup> while asking supplementary question, a member asked more than one supplementary question. The Chairman asked the Minister to reply to only one of the questions. The Minister, however, requested the Chairman to allow him to answer all the questions stating that there was panic outside and things were not put in the right perspective by different channels and this was the best opportunity and the best forum for him to share whatever information he had to help in spreading the right message across the country. The Chairman allowed the Minister to reply all supplementaries of the member.

On 26 November 2009,<sup>463</sup> the second questioner was allowed to ask two supplementary questions when the first questioner was not present.

On 8 December 2009,<sup>464</sup> the first questioner was not present and the second questioner was allowed to ask two supplementaries. After reply of the supplementaries, the first questioner arrived and he was allowed to ask only one supplementary.

The current practice regarding the number of supplementaries to starred questions is governed by the following direction<sup>465</sup> of the Chairman:

Two supplementaries may be allowed to the member in whose name a starred question has been listed. Besides, three more members may be allowed one supplementary each. In case of a starred question, which is not put or the member in whose name it is appearing is absent, three members may be allowed one supplementary each.

There have been instances, after issuance of this direction, when the Chairman had to make observations/rulings regarding the number of supplementaries.

On 29 April 2010,<sup>466</sup> after three members had asked supplementaries after the original questioner, a member stood up to ask for

supplementary question. On this, the Chairman ruled, “You have made an observation. It will go on record. But it is not a supplementary question”. Here, the rule of three supplementaries besides first/original questioner was followed by the Chair.

On 4 March 2011,<sup>467</sup> after two supplementaries had been answered by the Minister regarding a short notice question, the member raised his third supplementary question. But the Chairman called the name of next member for asking supplementary question. On a request to let the Minister respond to his third supplementary question, the Chairman observed, “I think you have asked your two supplementaries.” At this, the member said, “We cannot simply go by rules only.” The Chairman then allowed the third supplementary question of the member to be answered orally by the Minister.

On 14 May 2012,<sup>468</sup> when a member wanted to ask a supplementary after five supplementaries had already been asked, the Chairman clarified the position stating:

...A supplementary question to a main question, apart from the person who has asked the question, is something by way of a courtesy given to individuals. The rule in this House, as far as the Rule Book is concerned, is two supplementaries. This Chair is giving you three supplementaries. The rule in this House, as the Rule Book is concerned, is two supplementaries. The Chair tries to rotate the supplementaries around the House, party-wise, front bench-wise, back bench-wise, etc...

### **Use of languages other than Hindi and English during Question Hour**

If a member, in whose name a question appears in the list of questions for oral answers wishes to ask a supplementary question in any of the languages mentioned in the Eighth Schedule to the Constitution (other than English and Hindi), then he has to give an advance intimation to that effect. The simultaneous interpretation arrangements are provided for the purpose. This facility is available only to the member in whose name the question appears in the list of questions for oral answers. Advance notice in such a case has to be given by the member concerned by 3.00 p.m. on the working day preceding the day on which the question is listed for answer. In the printed proceedings only an English version of the supplementary question asked in a language other than Hindi or English is incorporated.<sup>469</sup>

On an occasion, the Minister of Health and Family Welfare (Shri Raj Narain) answered the main question in Tamil. Members objected to

this, saying that they were unable to understand the answer which should have been given either in English or in Hindi. After some points were raised, the Chairman ruled, “When members put questions they are entitled to get the replies from the hon’ble Minister. It is a well-established practice here that the reply should be either in English or in Hindi.”<sup>470</sup>

A member who was not the first questioner asked a supplementary question in Bengali. When the Minister sought permission to answer in Bengali first and offered to translate it in English also, the Chairman stating that then there would be no end, observed, “The rules are very clear that the original person who puts a question is permitted and not the rest.” The Chairman directed the Minister to reply in English. After a while another member, before putting his supplementary question, stated that a new precedent had been set up by allowing a member who was not the original questioner to put a supplementary question in a regional language and hoped that whenever a member wanted to put a question in his mother tongue in future he would not be stopped. The Chairman clarified that he had not set any precedent; it was as a sort of a joke.<sup>471</sup>

When a Minister was replying to the supplementary question put by a member in English, the questioner requested him to speak in Hindi but another member protested saying that she does not understand Hindi.

The Chairman ruled, “I leave it to the Minister. He can answer in any language... The Minister will answer in whatever language he wishes.”<sup>472</sup>

### **Advance publicity to answers to questions**

Answers to questions which Ministers propose to give in the House are not released for publication until the answers have actually been given on the floor of the House or laid on the Table.<sup>473</sup>

### **Short notice questions**

A question relating to a matter of public importance may be asked for oral answer by a member with shorter notice than fifteen (previously ten) clear days.<sup>474</sup> In such a case, the member has to briefly state the reasons for asking the question with short notice. Where no reasons have been assigned in the notice of the question, the same is returned to the member.<sup>475</sup> A standard printed notice form for a short notice question is available in the Notice Office. The notice form can also be downloaded from the website <http://rajyasabha.nic.in>

Earlier where notice was signed by more than one member or where two or more members gave short notice questions separately on the same

subject, names of only two members from whom notices were received in point of time were clubbed together for inclusion in the list of short notice question as in the case of a starred question. There had been an instance, on 9 August 1971, when a short notice question stood in the names of twenty-four members. Now short notice question stands listed against the name of only one member just as in the case of a question listed for oral answer.

If the Chairman is of opinion that the question is of an urgent nature, the Minister concerned is asked whether he is in a position to reply to the question at a shorter notice and, if so, on which date.<sup>476</sup> If the Minister concerned is in a position to reply, such question is answered on a day to be indicated by him and at the time to be determined by the Chairman.<sup>477</sup> An intimation to this effect is sent to the concerned member. In case the Minister regrets his inability to answer the question at a short notice, the member concerned is informed accordingly.

On an occasion, notice of a member for answer by the Minister of Panchayati Raj was listed as starred question for reply on 8 December 2011. The member was, however, dissatisfied with the replies given to the supplementaries raised during the debate. Other members too expressed dissatisfaction to the replies of the supplementaries. The Minister concerned, then stated that his answer related to the matters pertaining to the Ministry of Panchayati Raj, not the matters under jurisdiction of other Ministries particularly Ministry of Rural Development. On demand from the members, the Chairman postponed the question for reply to a later date. Thereafter, the member gave an identical notice of short notice question for reply by the Minister of Rural Development.<sup>478</sup>

The notice was listed for 13 December 2011 without seeking convenience of the Minister of Rural Development, thereby bypassing rule 58(1).<sup>479</sup>

In cases where the matter referred to in a question is not considered to be urgent, the question may be considered for answer either as a starred or unstarred question in the ordinary course with the required notice either at the request of the member or otherwise. If the Minister is not in a position to answer the question at shorter notice and the Chairman is of the opinion that the question is of sufficient public importance to be orally answered in the House, he may direct that the question be placed as the first question on the list of questions for the day on which it would be due for answer under rule 39. However, not more than one such question can be accorded first priority on the list of questions for any one day.<sup>480</sup>

The Committee set up to recommend Draft Rules of Procedure in considering the then rule relating to short notice questions took

note of a general feeling among members that the existing procedure by which a Minister had the final say in regard to answering short notice questions had often worked to the disadvantage of members and that the rule should, therefore, be modified so as to vest final authority in the Chairman in this regard. The Committee, therefore, recommended, as a compromise the incorporation of a new sub-rule [58(3)].<sup>481</sup>

When a short notice question is admitted and placed on the agenda, generally it is called immediately after Question Hour or after the starred questions for the day have been disposed of. If Question Hour has either been dispensed with or has not been provided for, it may be called for answer as the first item of business, and if there is a new member to take oath or affirmation or any obituary or other reference, etc. then immediately thereafter. Sometimes, however, a short notice question may also be taken up later in the day.

On an occasion a short notice question was taken up after the lunch-recess;<sup>482</sup> on another occasion it was taken up at 4.32 p.m.,<sup>483</sup> and yet on another occasion it was taken up after a reprimand was administered to a contemner.<sup>484</sup>

Ordinarily, a short notice question is completed within a short period, although there are instances when it has gone beyond one or even two hours.<sup>485</sup>

Normally, as per practice only one short notice question is put down for answer for a sitting, although there have been instances of early years when more than one such question had been put down and answered one after the other.

On 17 November 1965, 6 September 1966, 9 September 1966, 31 August 1968 and 11 May 1978, there were two short notice questions; on 10 September 1957 and 3 September 1966, there were three while on 26 June 1962, there were four such questions, listed for answers.

The member who has given notice of the question has to ask the question by reference to its number on the list of questions when called by the Chairman and the Minister concerned has to give a reply immediately.<sup>486</sup> A separate list of short notice question(s) is printed on a white paper, and the numbering is done consecutively for each session. In other respects, the procedure for short notice question is the same as for ordinary questions for oral answers, with such modifications as the Chairman may consider necessary or convenient.<sup>487</sup>

If a member in whose name a short notice question stood was absent, a written answer was laid on the Table of the House.<sup>488</sup> Sometimes, a short

notice question was permitted to be asked by another member on behalf of a member who was absent on specific authorisation. In such a case the Chairman used to put the matter before the House for ascertaining its consent.<sup>489</sup>

On an occasion, when a member in whose name a short notice question stood was absent and another member wanted to ask that question, the Deputy Chairman did not permit and the answer to the question was, therefore, laid on the Table of the House.<sup>490</sup>

When a short notice question was not answered as the House adjourned after making obituary reference to the passing away of Shri P.R. Kumaramangalam, Minister of Power, it was postponed from 24 to 25 August 2000 and was answered orally.<sup>491</sup>

When a short notice question is not orally answered on the floor of the House due to adjournment, answer to the same is treated to have been laid on the Table of the House the next day.<sup>492</sup>

A short notice question listed for 16 August 2010 could not be taken up for answer in the House on that day.<sup>493</sup> The Chairman, on the request of both the member and the concerned Minister, postponed the question for 17 August 2010.<sup>494</sup>

As of now, if the questioner is absent, the Chairman shall direct that the answer to it be given.<sup>495</sup>

If a Minister wishes to correct a reply to a short notice question, he has to read it out, as in the case of a correcting reply to a starred or supplementary question.<sup>496</sup>

### Half-an-hour discussions

The Chairman may permit a member to raise a discussion on a matter of sufficient public importance which has been the subject of a recent question—oral or written—and the answer to which needs elucidation on a matter of fact.<sup>497</sup> A member wishing to raise a discussion has to give notice in writing three days in advance of the day on which the matter is desired to be raised and has to briefly specify the point or points that he wishes to raise.<sup>498</sup> The notice period may, however, be waived by the Chairman with the consent of the Minister concerned.<sup>499</sup> The notice is required to be given in the standard form in light green colour available in the Notice Office. The notice form can also be downloaded from the website <http://rajyasabha.nic.in>. The notice should be accompanied by an explanatory note stating the reasons for raising the discussion on the matter in question.<sup>500</sup> The notice is also required to be supported by the signatures of at least two other members.<sup>501</sup>

If more than two notices have been received and admitted by the Chairman, a draw of lots is held with a view to selecting two notices and the notices are put down in the order in which they are received in point of time.<sup>502</sup> (For the first time two half-an-hour discussions were listed on 8 May 1981)

If a notice is admitted, the discussion is limited to half-an-hour and is held from 5.00 p.m. to 5.30 p.m. If the other business set down for the day is concluded before 5.00 p.m., the period of half-an-hour commences from the time such other business is concluded. However, the Chairman may vary the time of commencement of such discussion if such a course is, in his opinion, necessary or convenient.<sup>503</sup> However, there are instances when half-an-hour discussions continued beyond the stipulated period of half-an-hour.

Half-an-hour discussions on the British Nationality Bill,<sup>504</sup> Navodaya Vidyalayas and universalisation of elementary education lasted for nearly two hours,<sup>505</sup> the one on counter-trade agreement with Bofors went on for three hours,<sup>506</sup> the half-an-hour discussion on Bofors was taken up at 10.28 p.m. and it went on for nearly five hours, beyond 3.00 a.m. the next day.<sup>507</sup>

If half-an-hour discussion on a particular day is not disposed of on that day, it is included in the list of business for the next available day with the consent of the concerned member. But in any case not more than two such discussions are listed on any day.

There is neither a formal motion before the House nor voting. The member who has given notice initiates the discussion by making a short statement and the Minister concerned then replies shortly. Thereafter, the members who have given prior intimation to the Chairman are permitted to put a question each for the purpose of further elucidating any matter of fact.<sup>508</sup> The Minister concerned replies to the question asked at the end and that concludes the discussion.

On an occasion, the Minister (Shri V.V. Giri) made a statement before the start of the discussion to "shorten the discussion." The subject was appointment of a Central Tribunal for dealing with disputes between news-agency managements and their employees.<sup>509</sup>

On some other occasion, members were permitted to put questions first on the request of the concerned Minister and the Minister replied at the end, departing from the usual procedure.<sup>510</sup>

One day, half-an-hour discussion started at 7.02 p.m. The members who had given the notice initiated the discussion. The Minister

concerned replied to the points raised by the members. Thereafter, four other members put questions. At 7.39 p.m., the Vice-Chairman announced the consensus of the House that the reply to the discussion by the Minister may be sent to members in writing. It was a departure from the usual practice of replies being given on the floor of the House by the concerned Minister.<sup>511</sup>

On 12 August 2011,<sup>512</sup> when supplementaries to starred question regarding ‘Development of higher and technical education in underdeveloped States’ were being answered by the Minister, members were agitated for not sanctioning any new Central University for Uttar Pradesh and there were interruptions. The Chairman then observed:

To the best of my recollection, I do not have any notice from any of the Hon’ble members who have been talking on the subject, relating to this question, that there should be a discussion on this or a related subject. So, I do not understand why there is a sudden eruption. If you feel that a subject should be discussed, please give notice.

If a member in whose name the half-an-hour discussion is put down in the list of business is absent, any member who has supported the notice may, with the permission of the Chairman, initiate the discussion.<sup>513</sup> The discussion may be postponed to some other day on request when the member concerned is absent due to certain unavoidable reasons on the day on which the half-an-hour discussion is scheduled to be held or at the request of the Minister or if the House so decides.<sup>514</sup>

One member requested that taking cognizance of mood of members, half-an-hour discussion on the subject may be allowed.

The Chairman stated, “I am willing to give you that. I do not have a problem. But please give notice.”

Subsequently, half-an-hour discussion notices on the issue were given by two members which were admitted without calling for facts from the Ministry, in view of the proceedings in the House and the observations made by the Chairman. The half-an-hour discussion was later discussed on 25 August 2011.<sup>515</sup>

### **Computerisation of Questions**

Application of information technology for accelerated connectivity, quick access and dissemination of information and faster disposal of work has been the defining theme of our age. Therefore, to facilitate faster processing and delivery of information, accurate analysis of facts and figures,

higher efficiency and productivity, use of computers has become inevitable. Question Branch has witnessed application of information technology in its manifold activities. The process of computerisation in Question Branch started in the year 1999. The following information has been made available on the Rajya Sabha Website:-

- (i) Question Chart;
- (ii) Question Calendar;
- (iii) Ballot Lists;
- (iv) Grouping of Ministries;
- (v) Session-wise statistical information regarding Questions;
- (vi) Ministry-wise list of Nodal Officers; Pamphlet on subjects for which various Ministers are responsible for answering Questions in the Rajya Sabha;
- (vii) Precedents; and
- (viii) General information regarding Questions.

Following Softwares have been operational for faster dissemination of information and simplifying the procedures through use of Information Technology:

- (i) Parliament Question Processing System application (Diary software);
- (ii) Holding ballot of Notices of Questions (Notices for written answer only);
- (iii) Electronic transmission of answers to questions from Ministries to the Secretariat;
- (iv) Electronic search of questions and answers;
- (v) Dashboard application for back office applications.

#### **Uploading of answers to questions on the Rajya Sabha Website**

Answers to Parliament questions are made available on website from 174<sup>th</sup> Session onwards. Initially NIC provided e-mail facility to all Ministries/ Departments to mail their replies to Question Branch. Questions and their answers were transferred to the Parliament Division in the Ministry by LAN (or floppy if e-mail facility is not available) for centralising the material. The NIC official and the Parliament Division of the respective Ministry after checking that all the answers for the day have been received used to

transmit the text of the questions and answers by e-mail (as an attachment) to the Rajya Sabha Secretariat as soon as Question Hour of the day is over. There were problems of non-receipt of some answers through e-mail some time. These replies were uploaded by scanning hard copies thereof during Inter-Session period. All replies which were not received through e-mail from Ministries were uploaded before the commencement of next session.

To obviate the problem of non-receipt of all the answers through e-mail from Ministries, all Ministries/Departments were requested to appoint a Nodal Officer for coordinating the e-mailing of answers to questions. However, pendency of answers through e-mail continued. To overcome the problem of pendency in e-mailing of replies to Parliament questions, a new software *i.e.* ‘Parliament Question Answer Publishing System’ (E-reply) was developed. This facilitates uploading of answers to questions by the concerned Ministries/Departments immediately after the Question Hour is over or answers are treated to have been laid on the Table of the House. The new software has been made operational from the 224<sup>th</sup> Session and the performance has been satisfactory. Ministries/Departments are regularly uploading Hindi and English versions of replies along with Annexures on Rajya Sabha website through this software. The uploading of replies of short notice questions on the software has been successfully operationalised w.e.f. the 226<sup>th</sup> Session.

### **Link-up between answers to questions and supplementaries**

Another software had also been developed for creating a link between those starred questions that have been orally answered and the supplementaries asked thereon so that complete answers to the starred questions along with supplementaries are made available.

If supplementaries have been asked on a starred question, then a ‘Supplementary Question’ link appears at the end of the question. By clicking on this link a page with the heading ‘Supplementary Question Details’ opens up. By clicking on the member’s name against the participants’ option, supplementary page opens up.

#### **NOTES AND REFERENCES**

1. R. 38.
2. Bn. (II), 11.11. 2014.
3. *Ibid.*, 26.11.2014.
4. *Ibid.*, 6.12.1996 and Bn.(I), 9.12.1996.
5. *Ibid.*, 4.3.2011.
6. C.S. Deb., 16.5.1952, c. 45 and 47.
7. *Ibid.*, 19.5.1952, c. 49-50.

8. S.O. 9.
9. C.S. Deb., 20.5.1952, c. 226.
10. Report submitted on 10.7.1952.
11. C.S. Deb., 14.7.1952, c. 993.
12. Not. No. CS 3/52-L, 11.7.1952 and Bn. (II), 15.7.1952.
13. R.S. Deb., 27.4.1956, c. 493-94.
14. *Ibid.*, 15.3.1954, c. 2818; 16.3.1954, c. 2823; 17.3.1954, c. 3154; and 18.3.1954, c. 3161.
15. Bn. (II), 24.3.1961, 11.7.1975, 20.9.1976 and 28.2.1977.
16. R.S. Deb., 21.7.1975, c. 24 and 33-44.
17. *Ibid.*, 3.11.1976, c. 3849.
18. *Ibid.*, 22.11.1962, c. 2206.
19. Bn. (I), 18.12.2001 and 19.12.2001.
20. Provisional Calendar of sittings for 75<sup>th</sup>, 100<sup>th</sup>, 101<sup>st</sup> and 112<sup>th</sup> sessions (f.n.); Bn. (II), 17.3.1971, 16.5.1977.
21. R.S. Deb., 4.12.1971, c. 153-54.
22. *Ibid.*, 11.12.2008 p. 2.
23. Bn. (II), 26.5.2009.
24. R.S. Deb., 25.2.2010 p. 1.
25. *Ibid.*, 17.8.2012 p. 1.
26. *Ibid.*, 7.12.2012 p. 1.
27. C.S. Deb., 6.5.1954, c. 5290; R.S. Deb., 22.4.1955, c. 5584; 21.9.1955, c. 3946.; 21.12.1963, c. 4483; Bn. (II), 30.7.1971; R.S. Deb., 21.3.1974, c. 142; 12.12.1980, c. 183; 22.8.1984, c. 341-42; 30.4.1986, c. 261-62; 12.8.1986, c. 443; 6.5.1987, c. 387; 28.8.1987, c. 245; 10.12.1987, c. 306; and Bn. (II), 29.7.1998.
28. C.S. Deb., 25.7.1952, c. 2041-43.
29. *Ibid.*, 30.7.1952, c. 2360.
30. Bn. (II), 21.12.2009.
31. *Ibid.*, 20.8.2010.
32. *Ibid.*, 10.3.2011.
33. *Ibid.*, 2.12.2011 and 21.12.2011.
34. *Ibid.*, 27.8.2013 and 6.9.2013.
35. C.S. Deb., 23.4.1953, c. 3908; 28.8.1953, c. 533; R.S. Deb., 13.8.1957, c. 355; 14.8.1962, c. 1609; 23.3.1966, c. 4182; 30.3.1977, c. 54-55; Bn (II), 13.6.1977, 29.4.1992, 27.7.1992, 26.4.1993 and 18.5.1994.
36. Bn. (II), 23.4.1997.
37. *Ibid.*, 21.11.2008.
38. *Ibid.*, 18.1.2014.
39. R.S. Deb., 27.6.1980, c. 197-98; see also R.S. Deb., 24.8.1974, c. 38 and 51.
40. *Ibid.*, 5.9.1991, c. 394; 6.9.1991, c. 242-43; and 17.9.1991, c. 19-20.
41. Bn. (II), 26.4.1993 and 18.5.1994.
42. C.S. Deb., 4.12.1952, c. 948; 6.12.1952, c. 949; see also R.S. Deb., 14.6.1962, c. 2.
43. R.S. Deb., 25.2.1969, c. 1360.
44. *Ibid.*, 3.3.1969, c. 2009-10.
45. *Ibid.*, 8.12.1978, c.144.
46. Bn. (II), 6.7.1998.
47. R.S. Deb., 11.12.2012, p. 3.
48. *Ibid.*, 31.7.1986, c. 1-12; 13.4.1987, c. 5; 28.7.1987, c. 1-21; 22.5.1990, c. 1-3; and 24.7.2000, pp. 3-4.
49. *Ibid.*, 22.11.1967, c. 457-62.
50. *Ibid.*, 1.9.1981, c. 1-31.
51. *Ibid.*, 23.11.2009, pp. 1-6.
52. *Ibid.*, 17.12.2009, pp. 1-2
53. *Ibid.*, 20.2.1968, c. 1119-21.
54. *Ibid.*, 9.12.1968, c. 3131-33.
55. *Ibid.*, 24.12.1968, c. 5423-24.
56. *Ibid.*, 28.7.1987, c. 1-21.

57. R.S. Deb., 2.11.1991, c. 1-3.
58. *Ibid.*, 2.12.1992, c. 2-4.
59. *Ibid.*, 22.3.2012, pp. 2-3.
60. *Ibid.*, 8.8.1988, c. 1-13; 15.3.1989, c. 3-4; 24.4.1989, c. 3; 30.4.1990, c. 7; and 29.11.1991, c. 2-3.
61. *Ibid.*, 17.8.1984, c. 13.
62. *Ibid.*, 14.3.1990, c. 1.
63. *Ibid.*, 18.5.1990, c. 1-3; and 21.5.1990, c. 1-6.
64. *Ibid.*, 27.12.1990, c. 1-53.
65. *Ibid.*, 22.2.1991, c. 1-3.
66. *Ibid.*, 24.3.1992, c. 3-8.
67. Bn. (I), 16.12.1992.
68. R.S. Deb., 15.5.1995, c. 438-598.
69. *Ibid.*, 21.8.1995, c. 1-167.
70. *Ibid.*, 18.12.2001, c.1-2; and 19.12.2001, c. 1.
71. *Ibid.*, 3.12.2003, c. 1-11.
72. *Ibid.*, 31.7.1991, c. 1-4.
73. Bn. (II), 22.04.2013.
74. *Ibid.*, 17.12.2013.
75. Bn. (I), 24.5.1971.
76. R.S. Deb., 4.12.1978, c. 1-57.
77. *Ibid.*, 13.7.1979, c. 1-23.
78. *Ibid.*, 1.9.1981, c. 1-41.
79. *Ibid.*, 23.7.1984, c. 10.
80. *Ibid.*, 14.3.1995, c. 2-35.
81. *Ibid.*, 23.3.1995, c. 330-94.
82. *Ibid.*, 28.3.1995, c. 1-13.
83. *Ibid.*, 29.3.1995, c. 1-2.
84. *Ibid.*, 31.7.1995, c. 4-9.
85. *Ibid.*, 11.12.2001, pp. 1-16 and 186-87.
86. *Ibid.*, 1.12.2006, pp. 1-12.
87. *Ibid.*, 4.5.2007, pp. 1-12.
88. *Ibid.*, 29.8.2007, pp. 2-15.
89. *Ibid.*, 8.3.2013, pp. 1-20.
90. *Ibid.*, 17.12.1958, c. 2622; and 24.7.1969, c. 791-92.
91. *Ibid.*, 22.4.1958, c. 26.
92. *Ibid.*, 26.2.1969, c. 1482.
93. *Ibid.*, 9.6.1967, c. 3109.
94. *Ibid.*, 24.5.1971, c. 22.
95. *Ibid.*, 7.8.1967, c. 2464-66 and 2644-48.
96. *Ibid.*, 8.8.1967, c. 2682-83.
97. *Ibid.*, 11.11.1974, c. 1-20 and 84-85.
98. *Ibid.*, 23.4.1984, c. 7.
99. *Ibid.*, 29.1.1980, c. 32-33.
100. *Ibid.*, 20.3.1985, c. 35; 27.2.1986, c. 29; 6.3.1986, c. 33; and 29.7.1986, c. 31.
101. *Ibid.*, 5.8.1988, c. 29.
102. *Ibid.*, 28.7.1989, c. 33.
103. *Ibid.*, 26.12.1989, c. 30-34.
104. *Ibid.*, 14.8.1963, c. 201-03; 4.4.1966, c. 5311; 6.8.1970, c. 29-32; 6.8.1974, c. 30; 26.11.1974, c. 30-32; 25.5.1976, c. 30-31; 9.3.1978, c. 35; 8.8.1978, c. 39-40; 5.3.1979, c. 39-40; 16.5.1979, c. 42; and 5.9.1990, c. 36.
105. *Ibid.*, 22.8.1973, c. 30-31.
106. *Ibid.*, 27.8.1974, c. 34.
107. *Ibid.*, 21.11.1977, c. 36.
108. *Ibid.*, 10.9.1981, c. 34.
109. *Ibid.*, 10.3.1964, c. 3719.

110. R.S. Deb., 18.11.1964, c. 286.
111. *Ibid.*, 29.11.1956, c. 1011; 26.12.1958, c. 1752.
112. *Ibid.*, 6.5.1959, c. 1899.
113. *Ibid.*, 1.7.1980, c. 1; *and* 4.5.1985, c. 17 *and* 193-94.
114. *Ibid.*, 20.3.1969, c. 4888.
115. *Ibid.*, 28.7.1970, c. 7-8; *and* 3.8.1970, c. 8-9.
116. *Ibid.*, 4.8.1970, c. 25-26.
117. *Ibid.*, 19.9.1963, c. 4806; *and* 20.9.1963, c. 4972-97.
118. *Ibid.*, 7.8.1967, c. 2462-2644.
119. *Ibid.*, 1.6.1967, c. 1631-36.
120. *Ibid.*, 31.7.1967, c. 1293-95.
121. *Ibid.*, 1.8.1967, c. 1580-83 *and* 1636-39.
122. *Ibid.*, 17.11.1969, c. 1-6.
123. *Ibid.*, 27.8.1974, c. 34.
124. *Ibid.*, 27.4.1982, c. 3-5.
125. *Ibid.*, 6.11.1987, c-49; 25.4.1988, c. 1-10; 5.9.1988, c. 1-41; *and* 21.8.1992.
126. *Ibid.*, 28.2.1956, 25.2.1958, 8.3.1961, 2.3.1963, 26.11.1963, 25.9.1964, 17.11.1964, 6.5.1969, 9.5.1972, 3.3.1974, 27.6.1980, 18.8.1981, 14.3.1985, 22.8.1985, 4.3.1986, 18.7.1986, 12.8.1986 *and* 14.3.1990.
127. *Ibid.*, 9.3.1959, c. 2819-20 *and* 2998-3017.
128. *Ibid.*, 9.9.1960, c. 4105.
129. *Ibid.*, 24.11.1992, c. 1-31.
130. *Ibid.*, 31.7.1974, c. 2.
131. Bn. (I), 16.8.1956, 9.3.1970, 15.1.1976, 18.8.1980, 12.5.1986, 6.8.1987, 7.3.1988, 16.8.1990, 2.1.1991.
132. R.S. Deb., 18.2.1981, c. 1-4; Bn. (I), 19.2.1981.
133. *Ibid.*, 11.3.1991, c. 39.
134. Bn. (II), 8.8.1995.
135. R.S. Deb., 8.8.1995, c. 18-19.
136. *Ibid.*, 14.3.1981, c. 1-20; 18.5.1990, c. 1-17; *and* 21.5.1990, c. 1-29.
137. *Ibid.*, 15.3.1989, c.1-30; 24.4.1989, c. 3-51; *and* 30.4.1990, c. 3-7.
138. *Ibid.*, 1.9.1981, c. 1-59 *and* 8.7.1992, c. 3-51.
139. *Ibid.*, 1.9.1981, c. 1-59; 17.8.1984, c. 1-44; *and* 8.7.1991, c. 3-29.
140. *Ibid.*, 20.12.1978, 13.4.1987, 28.7.1987, 10.7.1992, 13.7.1992, 24.7.1992, 31.7.1992, 7.12.1992, 8.12.1992 *and* 9.12.1992.
141. *Ibid.*, 4.12.1978, 13.7.1979, 23.7.1984, 29.7.1987, 30.7.1987, 22.5.1990, 21.7.1992 *and* 23.7.1992.
142. *Ibid.*, 24.5.1971, c. 1-23.
143. C.S. Deb., 15.3.1954, c. 2818; 16.3.1954, c. 2823; 17.3.1954, c. 3154; 18.3.1954, c. 3161; R. S. Deb., 18.12.2001, p. 2 *and* 19.12.2001, p. 21
144. R.S. Deb., 2.11.1962, c. 2205-06; 4.12.1971, c. 153 *and* Bn. (II), 23.11.1962, 19.4.1999, 27.4.2001, 19.12.2001.
145. *Ibid.*, 4.12.1961, c. 940.
146. Bn. (II), 19.12.2001.
147. *Ibid.*, 17.05.2007.
148. *Ibid.*, 10.09.2007.
149. *Ibid.*, 06.05.2008.
150. *Ibid.*, 08.05.2013.
151. *Ibid.*, 18.12.2013.
152. *Ibid.*, 18.03.1993.
153. *Ibid.*, 11.08.1988.
154. *Ibid.*, 22.12.1993 *and* 23.12.1993.
155. *Ibid.*, 16.7.1991.
156. R.S. Deb., 24.7.1991, c. 1.
157. Bn. (I), 19.4.1999 *and* Bn. (II), 19.4.1999.
158. Bn. (II) 27.10.2008.
159. R. 39, Bn. (II), 4.7.1996 (No. 35727).

160. Bn. (II), 5.5.1998.
161. *Ibid.*, 30.3.1994.
162. 7 Rpt., COR.
163. Bn (II), 12.6.1995.
164. *Ibid.*, 19.07.2013.
165. *Ibid.*, 1.2.1995 and 14.11.1995.
166. *Ibid.*, 3.11.2011.
167. *Ibid.*, 20.7.2012.
168. *Ibid.*, 6.2.2013.
169. *Ibid.*, 19.7.2013.
170. *Ibid.*, 6.2.1979.
171. R.S. Deb., 3.4.1970, c. 7; Bn. (II), 28.3.2000.
172. F. No. RS/4/1/iii/2012-Q.
173. Bn. (II), 7.4.1999.
174. *Ibid.*, 19.4.1997.
175. *Ibid.*, 23.4.1997.
176. R. 40.
177. R. 223.
178. Bn. (II), 12.11.2015 (No. 54605).
179. *Ibid.*, 24.9.2003.
180. R. 41.
181. R. 42.
182. Bn. (II), 14.11.1962 and 17.10.1978.
183. *Ibid.*, 5.5.1998.
184. *Ibid.*, 30.3.1994.
185. *Ibid.*, 14.11.1962.
186. Old R. 43.
187. SQ Lists, 12.7.1991 and 10.7.1996.
188. R. 43(1); Bn. (II), 3.2.2010.
189. R. 43(2).
190. 7 Rpt., COR.
191. R.S. Deb., 30.5.1995, c. 356-59.
192. Bn. (II), 12.6.1995.
193. *Ibid.*, 27.11.2014.
194. R. 44.
195. Bn. (II), 6.7.1992.
196. *Ibid.*, 10.3.1993.
197. *Ibid.*, 18.6.2004.
198. *Ibid.*, 6.2.2016.
199. *Ibid.*, 21.11.2008.
200. *Ibid.*, 18.11.2010.
201. R. 46.
202. R. 47(1).
203. R. 47(2)(i), as amended on 30.5.1995.
204. 7 Rpt., COR and Bn. (II), 12.6.1995.
205. R. 47(2)(iv).
206. R.S. Deb., 20.11.1968, c. 459-60.
207. R. 47(2)(ii).
208. R. 47(2)(iii).
209. R. 47(2)(v).
210. R. 47(2)(vi).
211. R. 47(2)(vii), as amended on 30.5.1995.
212. 7 Rpt., COR; Bn. (I), 30.5.1995; and Bn. (II), 12.6.1995.
213. R. 47(2)(viii).
214. R. 47(2)(ix).
215. R. 47(2)(x).

216. R.S. Deb., 20.6.1967, c. 4801-07.
217. R. 47(2)(ix).
218. R.S. Deb., 4.8.1980, c. 227-28.
219. R. 47(2)(xi).
220. Arts. 61, 94(c), 121 and 148.
221. R.S. Deb., 16.11.1988, c. 68.
222. *Ibid.*, 15.11.1966, c. 1132-46.
223. *Ibid.*, 11.8.1980, c. 52-54.
224. *Ibid.*, 25.4.2000, pp. 19-20.
225. R.47(2)(xii).
226. R.47(2)(xiii) and R.S. Deb., 12.12.1968, c. 3759-65.
227. R.S. Deb., 23.12.1968, c. 5166; 14.8.1970, c 4-5 and 17.6.1977, c. 4.
228. *Ibid.*, 6.9.1954, c. 1412.
229. *Ibid.*, 8.9.1954, c. 1678.
230. *Ibid.*, 20.12.1967, c. 4768-72.
231. *Ibid.*, 23.12.1968, c. 5166.
232. *Ibid.*, 17.6.1977, c. 4.
233. *Ibid.*, 29.7.1980, c. 11.
234. *Ibid.*, 18.3.1985, c. 9.
235. *Ibid.*, 6.8.1985, c. 2.
236. R. 47(2)(xiv).
237. R.S. Deb., 27.8.1968, c. 4644-45 and 4762-63.
238. *Ibid.*, 31.7.1972, c. 18-22; and 17.12.1970, c. 4.
239. R. 47(2)(xv).
240. R. 47(2)(xvi).
241. Bn. (II), 2.7.1971 and 1.2.1995.
242. R.S. Deb., 25.3.1985, c. 3.
243. R. 47(2)(xviii).
244. R. 47(2)(xix).
245. C.S. Deb., 28.4.1953, c. 4167.
246. *Ibid.*, 26.11.1952, c. 286-88.
247. R.S. Deb., 14.8.1968, c. 3201-04.
248. *Ibid.*, 7.12.1970, c. 116.
249. *Ibid.*, 20.5.1970, c. 18-21.
250. *Ibid.*, 5.8.2011, p. 22.
251. R. 47(2)(xx).
252. R. 47(2)(xxi).
253. R. 47(2)(xxii).
254. R. 48.
255. R.S. Deb., 6.5.1959, c. 1898-99.
256. *Ibid.*, 5.3.1987, c. 28.
257. Bn. (II), 1.2.1995.
258. F. No. 13/82-QI.
259. R.S. Deb., 13.8.1985, c. 16.
260. R. 57.
261. R. 49(1).
262. R. 49(2).
263. R. 50.
264. R.S. Deb., 14.11.1986, c. 12.
265. R. 50, *Proviso*.
266. R.S. Deb., 19.2.1964, c. 1138-39.
267. C. S. Deb., 28.7.1952, c. 2100.
268. R. 51.
269. Bn. (II), 27.11.2014, R. 51(A).
270. BAC mts., 26.11.1969 and Bn. (II), 7.1.1970.
271. Bn. (II), 14.5.1974.

272. Bn. (II), 17.10.1978.  
273. *Ibid.*, 5.11.1980.  
274. *Ibid.*, 23.11.1993.  
275. *Ibid.*, 30.6.2003.  
276. *Ibid.*, 14.8.1991, *see also* Bn. (II), 18.11.1994.  
277. *Ibid.*, 7.1.1970.  
278. *Ibid.*, 21.1.1975 *and* 4.4.1975.  
279. *Ibid.*, 16.12.1975 *and* 12.1.1979.  
280. *Ibid.*, 9.4.1979.  
281. *Ibid.*, 15.10.1980.  
282. *Ibid.*, 9.8.1981.  
283. *Ibid.*, 29.1.1988.  
284. Bn. (I), 30.5.1995.  
285. Bn. (II), 22.6.1995.  
286. SQ List, 6.7.2004.  
287. Bn. (II), 13.2.1974.  
288. R.S. Deb., 20.7.1971, c. 38; 26.2.1973, c. 1-2; 30.8.1973, c. 1-2; *and* 13.11.1973 c. 19-20.  
289. Bn. (II), 14.5.1974.  
290. COR mts., 19.6.1978.  
291. *Ibid.*, 5.11.1980.  
292. Bn. (II), 3.2.2010.  
293. 7 Rpt., COR.  
294. R. 52.  
295. R. 54(1) *and* (2).  
296. R. 54(2).  
297. R. 45, *Proviso*.  
298. R.S. Deb., 27.8.1968, c. 4638-39; 28.11.2001.  
299. Bn. (II), 3.2.2010.  
300. C.S. Deb., 14.4.1953, c. 2726; 13.5.1954, c. 6268; R.S. Deb., 15.12.1955, c. 2669; 28.5.1957, c. 1913; 11.3.1959, c. 3389; 19.11.1962, c. 1554; 2.12.1963, c. 1663; 30.9.1964, c. 3609; 23.12.1964, c. 4922; 4.5.1965, c. 292-93; 10.11.1965, c. 688; 10.8.1970, c. 11; 26.5.1971, c. 30; 12.5.1972, c. 6; 21.2.1978, c. 1; 24.8.1978, c. 9; 18.3.1980, c. 27; 6.8.1980, c. 11-12; 9.12.1983, c. 1; 21.1.1985, c. 2; 25.7.1986, c. 1; 22.8.1994, c. 20-31; 26.8.1994, c. 22-28; *and* 20.3.1995, c. 17-30.  
301. R.S. Deb., 26.5.1972, c. 3.  
302. *Ibid.*, 22.2.1955, c. 19-20.  
303. C.S. Deb., 16.12.1952, c. 1942; R.S. Deb., 18.12.1957, c. 2978; 11.3.1959, c. 3389; *and* 4.5.1965, c. 293.  
304. R.S. Deb., 14.3.1985, c. 20.  
305. *Ibid.*, 6.11.1986, c. 2.  
306. C.S. Deb., 28.7.1952, c. 2071.  
307. R.S. Deb., 16.12.1963, c. 3491, *see also* R.S. Deb., 25.5.1972, c. 1; *and* 30.11.1987, c. 1.  
308. *Ibid.*, 20.8.1974, c. 1.  
309. *Ibid.*, 17.11.1980, c. 5-6.  
310. *Ibid.*, 17.2.2009, pp. 1-7.  
311. *Ibid.*, 26.8.2011, p. 8.  
312. R. 59.  
313. C.S. Deb., 16.7.1952, c. 1215-17.  
314. *Ibid.*, 22.7.1952, c. 1624.  
315. R.S. Deb., 17.12.1968, c. 4445-51.  
316. 2 Rpt., COR mts., 24.1.1979.  
317. Bn. (II), 9.4.1979.  
318. *Ibid.*, 1.2.1995.  
319. *Ibid.*  
320. R.S. Deb., 1.3.1982, c. 7-8.  
321. *Ibid.*, 16.5.1985, c. 7.

322. R.S. Deb., 4.5.1964, c. 1567.
323. *Ibid.*, 21.11.1968, c. 671-77.
324. *Ibid.*, 13.5.1969, c. 2473-75; *see also* R.S. Deb., 29.7.1969, c. 1323.
325. *Ibid.*, 28.11.1972, c. 6; *see also* R.S. Deb., 19.3.1985, c. 1-2 and 10.5.1985, c.12-13.
326. *Ibid.*, 16.5.1985, c. 5-7.
327. O.M. No. 15/85-Q-1, 19.7.1985.
328. R.S. Deb., 21.2.1986, c. 3.
329. *Ibid.*, 30.4.1987, c. 15-16.
330. *Ibid.*, 12.11.1973, c. 26-27.
331. *Ibid.*, 25.8.2000, p. 15.
332. F. No. RS.35/15/2000-L. dated 19.9.2000.
333. R. 54(2).
334. R. 58(5).
335. R.S. Deb., 18.12.1981, c. 21-27.
336. *Ibid.*, 1.12.1987, c. 19.
337. *Ibid.*, 12.12.2011, pp. 26-28.
338. *Ibid.*, 23.8.2001, pp. 15-24 and 20.11.2001, pp. 4-14.
339. Bn. (I), 22.4.2008.
340. *Ibid.*, 30.8.2011, R.S. Deb., 22.2.2011, p. 25.
341. Bn. (II), 17.2.1982.
342. F. No. 3/82-Q-1.
343. R.S. Deb., 25.2.1982, c. 161-67; *see also* R.S. Deb., 4.11.1982, c. 315.
344. *Ibid.*, 9.8.1982, c. 201-03.
345. *Ibid.*, 25.7.1967, c. 357-61.
346. *Ibid.*, 5.6.1998, c. 267-69.
347. *Ibid.*, 9.8.1967, c. 2986.
348. C.S. Deb., 21.4.1954, c. 3599; R.S. Deb., 14.12.1954, c. 1861; 24.2.1955, c. 327; 18.11.1965, c. 1814; and 23.11.1965, c. 2364.
349. R.S. Deb., 14.3.1956, c. 2606.
350. *Ibid.*, 17.11.1987, c. 183-86.
351. *Ibid.*, 20.12.2002.
352. *Ibid.*, 21.11.1962, c. 1944.
353. R. 53.
354. R. 54(2).
355. R.S. Deb., 5.8.2013, pp. 78-79.
356. R. 53.
357. R.S. Deb., 8.3.2011, p. 73; and R.S. Deb., 15.3.2011, p. 89.
358. *Ibid.*, 27.8.2012, p. 42.
359. C.S. Deb., 2.3.1953, c. 1416.
360. HB, para. 11(12)(ii); R.S. Deb., 9.3.2000 and 16.3.2000.
361. C.S. Deb., 29.4.1953, c. 4311.
362. R.S. Deb., 1.8.1967, c. 1580-83.
363. *Ibid.*, 29.7.1970, c. 13-14.
364. *Ibid.*, 7.8.1972, c. 1-7.
365. *Ibid.*, 13.8.1985, c. 23, 32.
366. *Ibid.*, 16.11.1987, c. 17-25.
367. *Ibid.*, 2.5.1990, c. 25-30.
368. *Ibid.*, 20.3.1995, c. 28-30.
369. *Ibid.*, 10.5.1995, c. 11-23.
370. *Ibid.*, 7.8.1995, c. 2-5.
371. *Ibid.*, 26.2.1969, c. 1482.
372. *Ibid.*, 8.5.2000, p. 162.
373. *Ibid.*, 27.2.2013, pp. 11-12 and 6.3.2013, p. 6.
374. *Ibid.*, 16.2.1968, c. 688-91.
375. *Ibid.*, 19.2.1968, c. 970-74; *see also* 29.11.1968, c. 1858-59 and 16.12.1993, c. 14-16.
376. Bn. (II), 30.3.1994.

377. R. 55.
378. R.S. Deb., 5.12.1980, c. 1; *and* 11.12.1981, c. 38-39.
379. *Ibid.*, 18.3.1987, c. 27; *and* 4.5.1987, c. 26, 31-36.
380. *Ibid.*, 27.11.1974, c. 11.
381. *Ibid.*, 22.11.1962, c. 2107; *and* 5.12.1980, c. 1.
382. *Ibid.*, 21.2.1956, c. 226 *and* 238-42.
383. *Ibid.*, 23.12.1957, c. 3711.
384. C.S. Deb., 3.12.1952, c. 790.
385. *Ibid.*, 2.12.1953, c. 990.
386. *Ibid.*, 18.2.1954, c. 344.
387. R.S. Deb., 19.8.1963, c. 533.
388. *Ibid.*, 28.3.1966, c. 4645 *and* 4672-74.
389. C.S. Deb., 22.7.1952, c. 1613; 24.7.1952, c. 1852; *and* R.S. Deb., 23.12.1954, c. 3177.
390. R.S. Deb., 19.2.2003, p. 8.
391. C.S. Deb., 27.3.1953, c. 2333; 14.12.1953, c. 2102; 11.3.1954, c. 2433 *and* R.S. Deb., 21.4.1955, c. 5407; *and* 20.12.2004, p. 12 *and* 24.
392. R.S. Deb., 18.12.2003, p. 8
393. R. 54(3).
394. R.S. Deb., 27.8.1968, c. 4638-40.
395. *Ibid.*, 28.8.1968, c. 4965-66.
396. *Ibid.*, 26.4.1995, c. 2-13; 28.4.1995, c. 444-46.
397. *Ibid.*, 17.3.1997, c. 10-11.
398. *Ibid.*, 25.4.2008, p. 27.
399. Bn. (II), 3.2.2010.
400. R.S. Deb., 27.3.1995, c. 1-33.
401. *Ibid.*, 9.9.1996, c.1-20.
402. *Ibid.*, 14.3.1997 c. 29-34.
403. *Ibid.*, 5.6.1998, c. 43.
404. *Ibid.*, 19.3.1997, c. 22-23.
405. Bn. (II), 3.12.2002.
406. R. 56(1).
407. R. 56(2).
408. R.S. Deb., 30.9.1964, c. 3640.
409. *Ibid.*, 27.8.1965, c. 1624.
410. *Ibid.*, 18.8.1967, c. 4715.
411. *Ibid.*, 13.2.1968, c. 57.
412. *Ibid.*, 11.3.1980, c. 2.
413. *Ibid.*, 17.11.1980, c. 4.
414. *Ibid.*, 25.11.1980, c.159-60.
415. *Ibid.*, 10.7.2009, pp. 9-14.
416. *Ibid.*, 15.7.2009, pp. 1-11.
417. *Ibid.*, 16.8.1963, c. 340; *and* 23.3.1983, c. 32.
418. *Ibid.*, 13.2.1968, c. 56.
419. *Ibid.*, 18.12.2008, pp. 11-15.
420. *Ibid.*, 15.7.2009, pp. 1-11.
421. *Ibid.*, 31.7.2009, pp. 3-11.
422. *Ibid.*, 9.12.2009, pp.10-15.
423. *Ibid.*, 4.8.2010, pp. 11-16.
424. *Ibid.*,13.8.2010, pp. 1-2.
425. *Ibid.*, 3.8.2011, pp. 6-10.
426. *Ibid.*, 19.2.1969, c. 273-74.
427. *Ibid.*, 24.2.1969, c. 926.
428. C.S. Deb., 18.2.1954, c. 311-12.
429. R.S. Deb., 14.8.1965, c. 2; 27.11.1980, c. 21; *and* 29.7.1986, c. 5.
430. *Ibid.*, 23.7.1985, c. 21; *and* 27.4.1988, c. 7.
431. *Ibid.*, 27.4.1988, c. 9-11.

432. R.S. Deb., 2.12.2009, pp. 2-15.
433. *Ibid.*, 28.2.1984, c. 10-12
434. Brochure entitled *Questions in the House of Commons*, Public Information Office, series no. 1 (Nov. 1979).
435. R.S. Deb., 11.11.1987, c. 17.
436. *Ibid.*, 21.2.1968, c. 1372.
437. *Ibid.*, 17.12.1980, c. 238, etc.
438. *Ibid.*, 23.7.1985, c. 11; and 24.7.1985, c. 3.
439. *Ibid.*, 28.3.1967, c. 906-07; 24.7.1967, c. 18-19; 27.7.1967, c. 728; and 31.7.1967, c. 1293-95.
440. *Ibid.*, 31.8.1965, c. 2030.
441. *Ibid.*, 19.6.1967, c. 4583.
442. *Ibid.*, 20.11.1967, c. 10; see also R.S. Deb., 23.11.1967, c. 706.
443. *Ibid.*, 6.3.1968, c. 3384; see also R.S. Deb., 2.5.1968, c. 697; 25.7.1968, c. 679-87; 27.2.1969, c. 1685 and 17.3.1969, c. 4146.
444. *Ibid.*, 26.6.1980, c. 5-8.
445. *Ibid.*, 28.7.1980, c. 1-3.
446. *Ibid.*, 26.11.1980, c. 1.
447. *Ibid.*, 17.12.1980, c. 238-43 and 255-56.
448. *Ibid.*, 13.8.1997, c. 9-26.
449. *Ibid.*, 9.8.2010, pp. 26-37.
450. *Ibid.*, 14.12.2012, pp. 1-8.
451. *Ibid.*, pp. 8-14.
452. *Ibid.*, 5.6.1998, c. 3-6 and 24.7.2000, p. 12.
453. Bn. (II), 27.11.2002.
454. R.S. Deb., 7.12.2007, pp. 1-5.
455. Bn. (II), 12.3.2008.
456. R.S. Deb., 14.3.2008, pp. 7-11.
457. *Ibid.*, 13.7.2009, pp. 4-10.
458. *Ibid.*, 15.7.2009, pp. 1-11.
459. *Ibid.*, 17.7.2009, pp. 12-24.
460. *Ibid.*, 27.7.2009, pp. 20-23.
461. *Ibid.*, 29.7.2009, pp. 1-6.
462. *Ibid.*, 7.8.2009, pp. 7-13.
463. *Ibid.*, 26.11.2009, pp. 12-21.
464. *Ibid.*, 8.12.2009, pp. 17-21.
465. Bn. (II), 3.2.2010.
466. R.S. Deb., 29.4.2010, pp. 12-20.
467. *Ibid.*, 4.3.2011, pp. 272-279.
468. *Ibid.*, 14.5.2012, pp. 11-19.
469. *Ibid.*, 28.3.1979, c. 18-19; Bn. (II), 28.3.1979, 17.4.1986; and R.S. Deb., 18.12.1980, c. 10-11.
470. *Ibid.*, 3.8.1977, c. 18-23.
471. *Ibid.*, 20.11.1987, c. 16-17 and 20.
472. *Ibid.*, 20.3.1995, c. 21-22; 4.5.1995, c. 9-10.
473. R. 59.
474. R. 58(1).
475. R. 58(4).
476. R. 58(1).
477. R. 58(2).
478. R.S. Deb., 8.12.2011, pp. 6-20.
479. *Ibid.*, 13.12.2011, pp. 280-85.
480. R. 58(3).
481. Report of the Committee on Draft Rules of Procedure (Nov. 1963), p. vi.
482. R.S. Deb., 17.8.1978, c. 207.
483. *Ibid.*, 18.8.1980, c. 378.

484. R.S. Deb., 1.6.1990, c. 2.
485. C.S. Deb., 14.8.1952, c. 4075-96; R.S. Deb., 9.8.1971, c. 121-51; 23.3.1979, c. 32-70; 30.11.1979, c. 3465; and 11.8.1980, c. 44-82.
486. R. 58(5).
487. R. 58(6).
488. R.S. Deb., 24.12.1954, c. 3279; 8.8.1977, c.1.
489. *Ibid.*, 2.9.1957, c. 2705; 26.11.1957, c. 880-82.
490. *Ibid.*, 26.12.1978, c. 1-3.
491. *Ibid.*, 25.8.2000, p. 23; Bn. (I), 24.8.2000.
492. *Ibid.*, 15.3.2001, pp. 191-92.
493. R.S. LoB, 16.8.2010.
494. *Ibid.*, 17.8.2010.
495. R. 54(3) and R. 58(6).
496. R.S. Deb., 30.4.1968, c. 304; 31.8.1968, c. 5602.
497. R. 60(1).
498. R. 60(2).
499. *Ibid.*, 3<sup>rd</sup> *Proviso*.
500. *Ibid.*, 1<sup>st</sup> *Proviso*.
501. *Ibid.*, 2<sup>nd</sup> *Proviso*.
502. R. 60(4), R.S. Deb., 8.5.1981, c. 359 and 386.
503. R. 60(1).
504. R.S. Deb., 8.5.1981, c. 386-438.
505. *Ibid.*, 8.8.1986, c. 278-322; 2.12.1987, c. 362-418.
506. *Ibid.*, 7.12.1987, c. 405-84.
507. *Ibid.*, 29.12.1989, c. 535, etc.
508. R. 60(5).
509. C.S. Deb., 16.9.1953, c. 2577-81.
510. R.S. Deb., 28.11.1986, c. 329.
511. *Ibid.*, 15.7.1998, c. 360; Bn. (I), 15.7.1998.
512. R.S. Deb., 12.08.2011, pp. 8-16.
513. R. 60(5), *Proviso*.
514. R.S. Deb., 30.3.1992, c. 272; 3.4.1992, c. 234.
515. *Ibid.*, 25.08.2011, pp. 353-364.

## CHAPTER–18

### Calling Attention

#### Absence of adjournment motion in Rajya Sabha

A provision to move an adjournment motion for the purpose of discussing a definite matter of urgent public importance, which was largely analogous to the procedure prevailing in the House of Commons, U.K., was made for the first time in 1920, in the Indian Legislative rules for the Legislative Assembly to be constituted under the Government of India Act, 1919. The Rules were applicable to both the Houses of the Central Legislature namely, the Legislative Assembly and the Council of State. Sub-rule (1) of rule 11 of those rules provided:

Subject to the provisions of sub-rule (2) of rule 22, a motion for an adjournment of the business of either chamber for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President.

However, in 1952, when House of the People and Council of States were constituted, the adjournment motion provision was retained in the House of the People rules only on the ground that the Council of Ministers was responsible to House of the People alone under article 75(3) of the Constitution. The omission of the provision of adjournment motion in the Council of States rules was, however, made good by the inclusion of a procedure of moving a “motion for papers”, in the Rules of Procedure and Conduct of Business in the Council of States.<sup>1</sup>

As early as 1952, the Rules Committee of the Council of States considered a suggestion that the Council of States Rules should also contain a provision enabling members to move an adjournment motion. In support of the suggestion, an opinion was expressed that the Council of States was not merely a revising body. Except in money matters it had equal powers with the House of the People. However, a contrary view was that as under the Constitution, the Council of States had no financial powers and the Council of Ministers was in express language responsible only to the House of the People, the function of the Council of States should be merely supervisory, and that instead of moving an adjournment motion, the Council should follow the technique perfected by the House of Lords of moving a motion for papers, on which the Council could discuss any matter of real public importance and which conferred the right of the reply on the member moving the motion.<sup>2</sup>

In a note regarding questions and adjournment motions in Second Chambers prepared by the then Secretary of the Council of States at the suggestion of the Committee, it was observed:

Such motions (adjournment motions) are by their very nature moved almost invariably by members belonging to parties in opposition to the Government. Accordingly, an adjournment motion is ordinarily taken as a motion for censuring Government. It has, therefore, been considered inappropriate to include any provision with regard to the moving of such adjournment motion in the Council of States especially in view of article 75(3) of our Constitution under which the Council of Ministers is collectively responsible to the House of the People. The conditions under which a motion for papers may be permitted have been made less stringent than the conditions under which an adjournment motion may be moved in the House of the People. Accordingly, it has been thought that a motion for papers will be a better substitute for a motion for adjournment in the Council of States.<sup>3</sup>

On 16 May 1952, which was the second sitting of the Council of States, clarifying about the Rules of Procedure, the Chairman observed:

...there are no Adjournment Motions in this Council because generally Adjournment Motions indicate censure of the Government or dissatisfaction with the Government. But the same purpose is served by Motions for Papers. That is also the procedure which prevails in the House of Lords. So, instead of Adjournment Motions, we have Motions for Papers.<sup>4</sup>

### Old procedure of Motion for Papers

Before the present rule 180 was incorporated in the Rules of Procedure and Conduct of Business in the Rajya Sabha, the only device available to members to draw the attention of the Government to an urgent matter of public importance was by means of a motion for papers which was then provided in the old rule 156.<sup>5</sup> The procedure for motion for papers was akin to the procedure prescribed in the House of Lords for motion of papers. In the House of Lords, it is a common practice to add at the end of a notice giving a subject for debate the words “and to move for papers”. This is usually done in order that there may be a motion before the House and that the mover may have an opportunity of replying to the debate. It is recognised that such a motion should normally be withdrawn, since it is treated as a neutral motion and there is neither advantage nor significance in pressing it.<sup>6</sup>

The rule (156/175) relating to the “motion for papers” read as follows:

- (i) Any Member desirous of raising discussion on a matter of urgent public importance may give notice of a “motion for papers” and specify clearly and precisely the matter to be raised.

(ii) If the Chairman is satisfied after calling for such information from the member who has given notice and from the Minister as he may consider necessary that the matter is urgent and of sufficient importance to be raised in the Council at an early date he may admit the motion and fix the date on which such motion may be taken up and allot such time for its discussion not exceeding three hours as he may consider appropriate in the circumstances:

Provided that, if an early opportunity is otherwise available for the discussion of the proposed matter, the Chairman may refuse to admit the motion.

(iii) If, at the end of such a discussion the motion is not by leave of the Council withdrawn or the Minister states that there are no papers to be laid on the Table or if the papers are available they cannot be laid on the Table on the ground that it will be detrimental in the public interest to do so, it will be open to any member to move an amendment, recording the opinion of the Council on the matter, in such form as may be considered appropriate by the Chairman.

(iv) An amendment, if moved, will be put to the Council without discussion unless the Chairman in his discretion thinks it to allot further time for the elucidation of any matters arising out of the amendment.

(v) In other respects rules governing the admission and discussion of a "motion for papers" shall be the same as for motions on matters of public interest with such modifications as the Chairman may consider necessary or convenient.

The practice followed was that since the prime intention of providing the procedure for "motion for papers" in the rules was only to enable a member to raise a discussion on an important and urgent issue, the Chairman, instead of admitting the "motion for papers" as such, would permit a member just to raise a discussion without any formal motion or admit such discussion in some other form such as a motion on a matter of public interest or by way of a ministerial statement, etc. In other words, there was not a single occasion when a "motion for papers" was formally admitted and discussed in the House.

### **Introduction of calling attention procedure**

The Committee constituted to recommend Draft Rules of Procedure under article 118(1) of the Constitution, took note of the feeling among some members that the procedure relating to "motion for papers" was so stringent that in practice it was found difficult to get any notice admitted under this procedure. It, therefore, recommended, *inter alia*, that a provision should be made in the Rajya Sabha Rules enabling members to give notices

of calling attention to matters of urgent public importance. The Report which was presented on 29 November 1963, was adopted by the House on 2 June 1964 and the new procedure of calling attention came into effect from 1 July 1964.<sup>7</sup>

The following observations of Shri Bhupesh Gupta, a member of the Committee made in the note appended to the Report of the above-mentioned Committee on the introduction of calling attention and short duration discussion procedures are apt:

Our House does not have provision for adjournment motions although there are Upper Houses where such adjournment motions are allowed, e.g., the Upper Houses of Canada, Australia and Eire. Of course, in the House of Lords in the U.K., no such provision is there, but the Rajya Sabha is no House of Lords! Therefore, the prevalent notion that the Upper Houses cannot have any adjournment motion is wrong. It is not necessary to link up the adjournment motion always with the question of no-confidence or of the resignation of the Government. Our House has undoubtedly suffered all these years as a result of absence of provision for adjournment motion or of some effective substitute provision for raising discussion on matters of urgent public importance. Rule 176 would remove to some extent these handicaps, provided discussions under it are allowed as frequently as possible. It is hoped that this rule would not turn out to be another dead letter like the old rule about the "motion for papers". In this matter, I would like the Rajya Sabha not to lag in any manner behind the Lok Sabha. On the contrary, it should be our endeavour to be more alert and assertive in taking up discussion under this rule and making the rule a really living one.

It is earnestly hoped that the rules under Chapters XIII and XIV would go considerably to enhance the role of the House as well as its stature in the eyes of the people. Practice and conventions will have their part to play.

### Provisions in rule 180

A member may, with the previous permission of the Chairman, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date. No member shall give more than two such notices for any one sitting. There shall be no debate on such statement at the time it is made. Not more than one such matter shall be raised at the same sitting. In the event of more than one matter being presented for the same day, priority shall be given to the matter which is, in the opinion of the Chairman, more urgent and important. The proposed matter shall be raised at 2.00 p.m. and at no other time during the sitting of the House.<sup>8</sup>

### **Procedure for giving notices**

A member who desires to call the attention of a Minister to a matter of urgent public importance has to give notice in writing in the prescribed form addressed to the Secretary-General. In order to facilitate preliminary examination of such notices and to avoid delay, a copy of the notice is required to be endorsed each to the concerned Minister and the Minister of Parliamentary Affairs.<sup>9</sup> The notice and the two copies thereof are required to be delivered in the Rajya Sabha Notice Office. Copies intended for the Minister of Parliamentary Affairs and the concerned Minister are collected by the Ministry of Parliamentary Affairs and transmitted to the concerned Ministry. This enables the concerned Minister to get an advance intimation of the notice so that he may, if necessary, apprise the Chairman of the factual position regarding the matter proposed to be raised in the notice, which in turn enables the Chairman to decide the admissibility of the notice. So far as the Minister of Parliamentary Affairs is concerned, the advance intimation enables his Ministry to coordinate between the concerned Ministry or Department of the Government and the Rajya Sabha Secretariat in the matter.

In pursuance of certain decisions taken at the meetings of the (i) Rules Committee held on 19 June 1978 and 16 May 1979, (ii) General Purposes Committee held on 21 March 1975 and (iii) leaders of parties and groups with the Chairman held on 3 August 1970 and 21 August 1970, an announcement was made by the Chairman in the House on 23 May 1979, and a Bulletin was issued informing members about the practice and procedure to be followed regarding calling attention.<sup>10</sup> Since then at the commencement of each session a Bulletin is issued informing members regarding the procedure to be adopted while giving notice of a calling attention.

Members can give notices as soon as the summons of the session is issued.<sup>11</sup> The notice is to be given by 10.30 a.m. on the day on which the matter is proposed to be raised in the House. All calling attention notices received for a day during a week in which that day falls are kept alive for the whole week and are placed before the Chairman for his consideration from day to day.<sup>12</sup>

The earlier practice was to keep the notices alive till the end of a session in respect of a particular subject admitted in so far as clubbing of names was concerned. The Rules Committee considered the matter and recommended that the calling attention notices should be kept alive till the end of the week only.<sup>13</sup> An announcement was accordingly made in the House.<sup>14</sup>

The Committee had also proposed that a sub-rule be added to rule 180, to provide that notices not accepted by the Chairman should lapse at the end of the sitting.<sup>15</sup> The House, however, did not agree to the recommendation.<sup>16</sup>

On the last day of the week on which the House sits, the notices which have not been selected by the Chairman are deemed to have lapsed. No intimation about this is given to members.<sup>17</sup> The Rules Committee recommended:

At present members whose calling attention notices are not accepted by the Chairman, are informed accordingly. The Committee feels that this is unnecessary. It will suffice if the admitted notice is displayed on the Notice Board for the information of members.<sup>18</sup>

Not more than two notices of calling attention may be given by a member for any one sitting.<sup>19</sup> This provision was added to rule 180 on the recommendation of the Rules Committee which observed:

Many a time members give a number of notices on different subjects for a particular day. The Committee is of the opinion that the number of notices which a member may give for a particular day, should be restricted to two only.<sup>20</sup>

However, notices on the same subject can be given by more than one member jointly or severally.

### **Admission of a notice**

The power to admit or disallow a notice of a calling attention rests with the Chairman. The decision concerning the admission of a calling attention or disallowing it rests with the discretion of the Chairman.<sup>21</sup> The admission of a notice is subject to the rules and the judgement of the Chairman that the matter sought to be raised calls for an early statement from the Minister. Urgency and public importance of the subject-matter are the two basic criteria for admission of notices of calling attention. The Chairman takes a decision on merit depending on these two criteria and selects for admission one subject from amongst several ones, notices for which are given by members for every sitting of the House. The Chair may not be able to accommodate a subject “merely on the principle that there must be a calling attention” or “for the sake of filling up the time and have a calling attention” every day.<sup>22</sup>

In the process of admitting a notice it may happen that a subject may not be taken up in the Rajya Sabha even when a similar subject is discussed in the other House by way of a calling attention.

On 14 August 1968, some members mentioned in the House that a calling attention regarding police excesses in certain towns of Uttar Pradesh of which notices had been given had not been admitted and expressed

views about the admission of notices. On 19 August 1968, the Chairman, *inter alia*, referring to the proceedings of 14 August 1968, gave the following ruling:

Members have sometimes represented to me that calling attention notices tabled by them have been disallowed. They should appreciate that I receive on an average about fifteen to twenty calling attention notices for every sitting and that under the rules only one of the notices can be admitted for a day.

When I admit one notice and withhold permission for the others, members should not feel that I have not appreciated the urgency or importance of the subject-matter of those notices. I consider all the notices and select one of them for admission and withhold permission for others. Members will agree that this power of deciding which of the many notices shall be admitted must rest with me and my judgement should be accepted by the House.

Sometimes members have complained to me that a calling attention notice has been disallowed in the Rajya Sabha, though a notice on the same subject has been admitted in the other House. All that I may say on this point is that I take an independent decision on merit, depending upon the urgency and importance of the subject-matter of the notice and taking into consideration the relative importance and urgency of the several notices on various subjects received by me and in that process it may happen that a notice may not be admitted in our House, though a notice on a similar subject has been admitted in the other House. The House will agree with me that such a situation is sometimes inevitable.<sup>23</sup>

When on an occasion, the Chairman called Special Mentions, on a point of order, a member complained that there had been only two calling attention notices admitted in the session and the House was not discussing important and urgent issues, the Chairman ruled out the point of order and observed:

It is in the discretion of the Chair to accept and admit calling attention. He will have to balance the work of the Government and of the administration. If he finds that there is time after dealing with the important issues like the Finance Bill and all that, he would certainly give time. But the Chair cannot and will not give precedence to calling attention over the Finance Bill and Government Business.<sup>24</sup>

It is not necessary that a calling attention notice must be admitted for every sitting of the House.

On 4 December 1971, due to Pakistani aggression, it was decided while changing the time of sittings, that there would be no “Question Hour” or “Calling Attention” from that day till the rest of that Session (78<sup>th</sup>).<sup>25</sup>

On 21 July 1975, during the 93<sup>rd</sup> Session which was called mainly to approve the Proclamation of Emergency and other related matters, the Minister of State in the Ministry of Home Affairs, Department of Personnel and Administrative Reforms and Department of Parliamentary Affairs moved the following motion which was adopted after discussion:

This House resolves that the current session of the Rajya Sabha being in the nature of an emergent session to transact certain urgent and important Government business, only Government business be transacted during the session and no other business whatsoever including calling attention and any other business to be initiated by a private member be brought before or transacted by the House during the session and all relevant rules on the subject in the Rules of Procedure and Conduct of Business in the Rajya Sabha do hereby stand suspended to that extent.<sup>26</sup>

Again on 3 November 1976, the following motion moved by the Minister, was, after discussion, adopted:

This House resolves that the current session of the Rajya Sabha being in the nature of a special session to consider the Constitution (Forty-fourth Amendment) Bill, 1976, and certain unavoidable and essential Government business, only Government business be transacted during the session and no other business whatsoever including Questions, calling attention and any other business to be initiated by a private member be brought before or transacted in the House during the session and all relevant rules on the subject in the Rules of Procedure and Conduct of Business in the Rajya Sabha do hereby stand suspended to that effect:

Provided that after the disposal of the said Constitution Amendment Bill, time permitting, the Chairman may in his discretion allow calling attention and Short Duration Discussion.<sup>27</sup>

Earlier the motion given notice of by Government did not contain the proviso.<sup>28</sup> Later, the Minister concerned gave notice of the above quoted motion in supersession of the earlier one.<sup>29</sup>

On 26 March 1985, when a member complained that the entire session (133<sup>rd</sup>) which commenced on 13 March 1985 “there has not been even one Calling Attention...Rajya Sabha has become a Special Mention Sabha,” the Chairman stated, “... in view of the pressure of work, members of the Business Advisory Committee had agreed not to have any calling attention during these two weeks.”<sup>30</sup>

Any member whose notice stands disallowed or lapses at the end of a week can revive his notice for a subsequent week by giving a fresh notice and the Chairman reconsiders such a notice along with other notices. Such a procedure enables the Chairman sometimes to admit a notice which he could not admit on an earlier day or week because of priority having been given to some other notice, or for any other reason.<sup>31</sup>

### **Non-admission of a notice**

As stated earlier, the Chairman has full discretion to admit or not to admit a notice of a calling attention. He is also not bound to give any reasons for his decision in the matter.

A member complained, on a point of order, that he had given notice of a calling attention which was rejected, but in the Lok Sabha that matter was discussed. The Chairman observed, “If you give notice of a calling attention and if it is rejected, there cannot be a point of order on that”.<sup>32</sup>

On 15 and 16 March 1989, at the beginning of Question Hour members raised a matter about non-admission of their calling attention regarding revelations in a newspaper about the assassination of Shrimati Indira Gandhi. The Chairman ruled, “After the fullest consideration of all aspects of the matter I am entirely convinced that the matter of calling attention should not be admitted”. When a member wanted to know the reasons, the Chairman observed, “Under the rules I am not obliged to say all this... But I am doing so to reassure you that I am satisfied that this calling attention motion is not admissible on very valid and noteworthy grounds... In taking this decision, I have kept in mind all aspects...including particularly the human aspect and unquestionable norms of fair play and justice”.<sup>33</sup>

### **Modification of a notice and its transfer to a Minister**

Members may give notices on substantially the same subject but word them differently and sometimes address them to different Ministers according to the emphasis of a subject. This may entail consolidation of all notices relating to the same subject or modification or reframing of the notices to reflect a common or comprehensive view contained therein or make the notices otherwise admissible. As far as possible, however, the language of the calling attention as given by a member in his notice is substantially retained.

The admitted version of the calling attention regarding the IB Report on use of foreign funds contained, *inter alia*, a reference to Communist countries. A member, on a point of order, objected to the reference and wanted deletion of the reference. The Chairman overruled the objection observing, “I have admitted it and therefore you cannot say anything now.”<sup>34</sup>

A calling attention was admitted on the “reported unilateral revaluation of rouble by the State Bank of USSR in relation to its rupee value and its adverse massive impact on repayment of credits to the Soviet Union.” A member, on a point of order, asked whether it was proper that when the negotiations were still on, the calling attention was proceeded on the basis which in its language, came to the conclusion

that there was already a negative or adverse impact. He felt that the language of the calling attention was very unhealthy. The Deputy Chairman made the following observations:

As far as the language...is concerned, it is given by certain members and I do not think we can change the language of the motion, except in cases where the language is either imputing motives or things like that.<sup>35</sup>

On another occasion, when a member stated that he had signed a calling attention notice of a different nature, the Chair observed, “it (*i.e.*, subject notice) is always reframed.”<sup>36</sup>

A calling attention notice given by some members for discussing the alleged misuse of State machinery at the Kisan Rally held in New Delhi on 16 February 1981, was admitted in the form of ‘reported expenditure of diesel for organising of Kisan Rally at New Delhi on 16 February 1981’. On a point of order about the scope of the calling attention, the Deputy Chairman observed, “...the Chairman has admitted this calling attention...on a subject that was given by the hon’ble members... The essence of the motion must be expressed here. I think they must have referred to the use of diesel and other things also. So he has included a wide range—‘expenditure of diesel’ in connection with the Rally. So far as the Rally is concerned, we are not going to discuss the Kisan Rally. That is not Government’s job. The Government cannot reply for a party.”<sup>37</sup>

On an occasion, a calling attention regarding serious threat to India’s security combined the following five, though related, matters to make the subject comprehensive (a) U.S. moves to establish naval bases in Sri Lanka; (b) establishment of Chinese naval bases near Karachi; (c) arms deal between Pakistan and U.S. arms manufacturing companies; (d) Saudi Arabia’s financial help to Pakistan to purchase U.S. arms; and (e) Pakistan’s plans to acquire nuclear weapons. A point of order objecting to such a procedure was ruled out by the Chair.<sup>38</sup>

The Chairman may also transfer or allocate a notice to a Minister other than the one to whom the original notice is addressed by the member.

A calling attention regarding reported recovery of Chinese balloons with transmitters and propaganda materials found in different parts of the country and the activities of the foreign-trained guerillas and other lawless elements in Manipur was admitted and addressed to the Minister of Home Affairs. After the Minister made a statement in response to the calling attention, points were raised that the original notice contained 3-4 specific matters and was addressed to the Minister of External Affairs. The Deputy Chairman agreeing with the member who called the attention observed:

What we normally do and what seems to have been done in this case also is that a number of motions on a subject or on related subjects

are clubbed together... Since this motion had ramifications which concerned the External Affairs Ministry also, we had, on our own, sent a copy to the External Affairs Ministry, so that the Minister of State for External Affairs, if he wanted, to be here and intervene if he so chose.<sup>39</sup>

A calling attention regarding situation arising out of the postponement of the bye-election to the Lok Sabha in the Garhwal parliamentary constituency was originally addressed to the Minister of Home Affairs but at the admission stage it was transferred to the Minister of Law & Justice, and members concerned were informed accordingly. Subsequently, the Chairman after having received a communication from the Minister of Law & Justice directed that the calling attention should be reframed in a general form, namely, "inadequacies in the electoral law in not providing a specific period for completion of a bye-election to Parliament". Accordingly, the calling attention in the revised form appeared in the list of business for 25 November 1981. When the matter was taken up, members raised a spate of points of order objecting to the substantial revision of the calling attention and its transference to the Minister of Law & Justice, instead of the Minister of Home Affairs to whom they had addressed. After the Minister of Law & Justice explained the position, the Deputy Chairman clarified the matter thus, "The Chair has got the right to reframe any calling attention submitted by the members in any phraseology...This has been the practice in the House in the past also. When several calling attention notices are given, then the Chairman decides and certain basic issues are included. The phraseology is always decided by the Chairman". After some further points, when the Deputy Chairman asked the first member in whose name the calling attention stood to call the attention he started reading his original notice addressed to the Home Minister. The Deputy Chairman did not permit, observing, "Only the notice printed on the order paper will go on record". After the Deputy Chairman directed that the Home Minister would also be present in the House throughout the debate, the calling attention discussion commenced.<sup>40</sup>

A calling attention regarding collapse of flyover under construction in connection with Asiad in New Delhi was admitted to be responded by the Minister of Railways. A member contended that the three Ministers were involved, namely, Railways, Works & Housing and Shipping & Transport. The Chairman pointed out that the calling attention was addressed to the Minister of Shipping & Transport but because the bridge was being constructed by Railways, the calling attention was addressed to it. He further said:

There were so many notices received about the collapse of the bridge. Some members directed it to Minister of Shipping & Transport and some to others. The overall construction of bridge is under the charge of Railway Minister so it will go to him... When there are so

many notices received in different phraseology but the main subject is one, they are clubbed together. If the members insist that their phraseology should not be changed, then they will suffer. Only one name will be identified and the names of the rest will not be mentioned because their phraseology is different, may be the subject is the same.

The calling attention was accordingly replied by the Minister of Railways although the Minister of Shipping & Transport who was present also clarified some points.<sup>41</sup>

A calling attention on wages of journalists and assault on them was addressed to the Minister of Information and Broadcasting and admitted for 5 December 1983. It was subsequently restricted to recent incidents of harassment of and assault on journalists only and addressed to the Minister of Home Affairs.<sup>42</sup>

### **Priority of notices**

The relative priority of the notices on a subject-matter which has been admitted by the Chairman, is determined according to the time of their receipt, in the case of separate notices. In the case of a notice jointly signed by several members, the sponsoring member gets precedence over all other members who have signed the notice. Names of all members who have given the notices jointly or severally on the same subject-matter are then entered in the list of business under the item of calling attention. There have been innumerable instances when an item of calling attention has appeared in the names of a large number of members. Some of the subjects which have been raised by way of calling attention by several members (numbers given in the brackets) are:

Reported statement of Prince Aga Khan regarding situation in Bangladesh (60),<sup>43</sup> hunger strike by Shri M.N. Govindan Nair, M.P. for judicial inquiry in police firing at Agra in May, 1978 (102),<sup>44</sup> atrocities on Harijans (74),<sup>45</sup> remunerative prices for wheat, etc. (65),<sup>46</sup> unemployment (55),<sup>47</sup> inadequate prices for paddy (57),<sup>48</sup> plight of farmers (51),<sup>49</sup> remunerative prices for agricultural produce (65),<sup>50</sup> remunerative prices for farmers (55),<sup>51</sup> remunerative prices for sugarcane growers (75),<sup>52</sup> and (61),<sup>53</sup> communal situation (61),<sup>54</sup> and scrapping of Cryogenic Rocket Engine deal by Russia (51).<sup>55</sup>

Nonetheless, the number of signatories to a calling attention notice is not the determining or decisive criterion for acceptance of a calling attention by the Chairman. On a number of occasions, notice of a calling attention subject given by only one member or two or three members has been admitted. The Rules Committee considered but did not agree to a suggestion that names of members under a calling attention item should be restricted to five, to be determined by ballot.<sup>56</sup>

As recommended by the Business Advisory Committee, names of members giving notices of a subject subsequent to its admission on the basis of earlier notices from other member/members are not considered for inclusion in the list of business, as was the previous practice.<sup>57</sup>

A member whose calling attention notice has not been selected during a week may renew the same for a subsequent week or weeks. In such a case, the date and priority of the notice is the date and time at which the renewal notice is received in the Secretariat from the member concerned and no consideration is given to his original or previous notice on the same subject, which has lapsed at the end of a week or otherwise.

A member raised a point of order regarding admission of a calling attention on prices of sugarcane on 14 December 1981, that on the very subject he had given notice two weeks ago which was not admitted but a late-stage notice given by other member(s) was admitted. Another member suggested that in such a case consideration should be given to earlier notices also and names of members giving such earlier notice should come first. The Deputy Chairman informed him about the procedure that a notice lapsed after a week and it had to be renewed for the next week and if it was not renewed then the name of the member was not added.<sup>58</sup>

### **Lapse of a notice**

As stated earlier, notices of calling attention not admitted till the last day of a week on which the House sits, lapse. A notice of calling attention given by a member also lapses if he ceases to be a member of the House by the expiration of his term in the Rajya Sabha even though he has been re-elected and had given notice of the calling attention during his previous membership.

A member complained that his name was excluded from a calling attention admitted for 3 April 1970. He stated that the ground for such omission, namely, that he retired on 2 April 1970 was not valid inasmuch as when the calling attention was admitted in his as well as other members' names he was a member of the House. He ceased to be a member at 12 O'clock midnight. The Chairman did not accept his contention and ruled that the notice which the member had given lapsed with the termination of his membership. At the time when the agenda started there was no notice from him.<sup>59</sup>

### **Intimation about an admitted notice**

After the Chairman has selected a subject for a calling attention, members who have given the notices, the concerned Minister/Ministry and the Ministry of Parliamentary Affairs are informed immediately on telephone as well as through a letter about admission of calling attention notice and

the schedule date on which it would be taken up in the House. If the subject-matter of the calling attention or any of its aspects falls within the jurisdiction of more than one Minister, a copy of the admitted calling attention is sent to each of them so that all the concerned Ministers may be present during the discussion and deal with the aspects concerning them. The admitted calling attention is also published in Parliamentary Bulletin Part-II for information. An item in that regard thereafter appears in the list of business for the day for which the notice is admitted.

### **More than one Calling Attention on a day**

#### *(i) Two calling attention matters*

Not more than one calling attention matter can be raised at the same sitting.<sup>60</sup> In the event of more than one matter being presented for the same day, priority is given to the matter which is, in the opinion of the Chairman, more urgent and important.<sup>61</sup> There have been a number of instances when more than one calling attention matters have been admitted and raised on the same day and in such cases more urgent and important matter was taken up first and the second one later during the day of the sitting of the House.

In early days, the practice followed in the event of two calling attention matters being admitted for a day was to take them either one after the other as listed<sup>62</sup> or take the first after questions and the second after the laying of papers on the Table and disposal of some business like Minister's statement or a Government Bill.<sup>63</sup> In later days, the practice was to take up the first calling attention after the questions and laying of papers on the Table and the second one towards the end of the day's sitting.<sup>64</sup>

On some occasions, two calling attention matters relating substantially to the same subjects were raised by two members separately on the same day one after the other. For instance, two calling attention matters regarding (i) inadequate food supplies to West Bengal and (ii) loss of foodgrains in transit from Bombay to Calcutta were raised and the concerned Minister gave a combined statement in two parts.<sup>65</sup>

On another occasion, two calling attention matters which were raised one after the other by two members related to (i) refusal of manufacturers to buy wool imported from Australia by the State Trading Corporation and (ii) increase in prices of wool. In the former case a statement was laid on the Table and in the latter case the statement was made by the concerned Minister in response to the calling attention.<sup>66</sup>

*(ii) Three calling attention matters*

On two occasions, three calling attention matters were also admitted for a sitting.

On 17 May 1966, three calling attention matters were raised and they related to (a) breakdown of power supply in Delhi, (b) attempt on the life of Shri G.M. Sadiq, Chief Minister of Jammu and Kashmir at Baramulla on 16 May 1966 and (c) attempt on the life of Shri Mehr Chand Khanna, Minister of Works, Housing and Urban Development.

On 2 September 1966, the three calling attention matters which were raised related to (a) massing of troops by Pakistan on our borders, (b) indiscriminate use of Defence of India Rules in Assam and (c) reported statement of the Chief Minister of Assam regarding anti-national and subversive activities in his State. The first two matters were taken up one after the other. In respect of the third one, the Minister concerned asked for time of a few days to make the statement. It was accordingly, made on 5 September 1966.<sup>67</sup>

**Time for taking up Calling Attention**

Till 30 June 1972, the procedure was to take up calling attention immediately after Question Hour and before any other item listed for the day in the list of business was taken up. The Rules Committee considered a suggestion that the formal business of laying papers on the Table of the House should be taken up immediately after the questions, and that only after the papers were so laid, should the calling attention be taken up. The suggestion was made on the ground that it would enable Ministers to attend to their official duties after laying the papers instead of waiting in the House for an uncertain time till the calling attention was over. The Committee agreed with the suggestion and recommended an amendment in rule 180(5) accordingly.<sup>68</sup> The amendment was adopted by the House on 1 June 1972.<sup>69</sup> The amendment became effective from 1 July 1972.<sup>70</sup> The Rules Committee also considered but did not agree to a suggestion that a calling attention should be taken up at 5.00 p.m.<sup>71</sup> As per the amended rule, the proposed matter was raised after the questions and the laying of papers, if any, on the Table and before any other item entered in the list of business was taken up and at no other time during the sitting of the House. Accordingly, the item of calling attention was shown in the list of business immediately after the questions and the papers to be laid on the Table.

On 3 September 1991, in the course of the discussion on the working of the Ministry of Information and Broadcasting, the Vice-Chairman announced that the debate would be concluded that day except the reply of the Minister which would be made the next day. A member

pointed out that there would be a calling attention on the atrocities against Harijans and other weaker sections which would take the whole of the next day. If at all the Minister had to reply, let him do so first, immediately after Question Hour, before the calling attention was taken up; otherwise he would not be able to reply on that day. The Vice-Chairman stated that the debate would go on till 7.00 p.m. and the Minister would reply the next day.<sup>72</sup> Accordingly, the list of business for 4 September 1991, listed further discussion on the working of the Ministry of Information and Broadcasting over the item about the calling attention. A point of order was raised with reference to rule 180(5). After some discussion, the Deputy Chairman called the Minister to reply and the calling attention was taken up afterwards.<sup>73</sup>

The Business Advisory Committee at its meeting held on 11 May 1992, recommended that the amendment made by the Lok Sabha in the Constitution (Seventy-second Amendment) Bill, 1992, be taken up for consideration on 12 May 1992, before the calling attention.<sup>74</sup>

On 27 July 1993, when the Deputy Chairman called the concerned Minister to lay on the Table a copy of the statement necessitating promulgation of an Ordinance followed by the introduction of a related Bill, a point of order was raised with reference to rule 180(5). The point of order was upheld and the calling attention was taken up.<sup>75</sup>

When some members suggested that the short duration discussion on the affairs of BCCI, which had remained inconclusive on Saturday, 14 September 1991, should be taken up first and the listed calling attention regarding price situation afterwards, a member expressed serious objection to this under rule 180. The Vice-Chairman ruled that the short duration discussion would be taken up after the calling attention.<sup>76</sup>

As mentioned earlier, till 26 November 2014, the procedure was to take up the calling attention after the questions and the laying of papers on the Table and before any other item in the list of the business and at no other time during the sitting of the House. Following the adoption of the 13<sup>th</sup> Report of the Committee on Rules by the House on 26 November 2014, the calling attention is now taken up at 2.00 p.m. The amendment came into effect from 27 November 2014.<sup>77</sup>

### **Postponement of Calling Attention**

As earlier stated, the calling attention is taken up on the day it is listed. However, it may be necessary that the calling attention may be postponed to some other time on the same day or subsequent day either on the request of the concerned Minister<sup>78</sup> or for other pressing business of the House.<sup>79</sup> If an item has already appeared in the list of business and is postponed under the direction of the Chairman, then the same is deleted in the revised list of business, if issued, and the House is apprised accordingly.

However, there are many instances when a calling attention matter had been taken up at some other time of the sitting of the House after taking the sense of the House on a Minister's request or due to exigency of the more important business in the House, viz., after the disposal of a Government Bill or a motion under consideration,<sup>80</sup> after the lunch recess<sup>81</sup> or after the disposal of private members' business,<sup>82</sup> or towards the end of a sitting.<sup>83</sup>

On a request from the concerned Ministers that they were busy in the other House, the Chair announced that the calling attention would be taken up later in the day.<sup>84</sup>

On an occasion when the member concerned called the attention of the Minister of Iron and Steel to the demand for the location of a steel plant at Visakhapatnam, the Deputy Minister stated that it was an important statement to be made and that it would be better made by the Minister himself who was shortly arriving by plane. He, therefore, requested the Chairman to allot some time in the afternoon that day. The Chairman fixed 4.30 p.m. as the Minister "could not get a seat in the earlier plane".<sup>85</sup>

The Deputy Chairman announced on 31 August 1981, that the calling attention regarding the alleged collection of funds by the Chief Minister of Maharashtra for a trust would be taken up on the next day. On 1 September 1981, however, instead of that calling attention, another one regarding the power crisis in the country was listed. When the matter was raised, the Leader of the House explained that because certain facts had to be ascertained from the State Government, one day's extension of time was sought which the Chairman had granted.<sup>86</sup>

The Chairman informed the House that the calling attention regarding agitation of farmers for remunerative price for cotton was being postponed in view of Government motion on the IMF loan that day.<sup>87</sup>

The Deputy Chairman announced that the Home Minister would very much like to reply to the calling attention regarding elections to the Delhi Metropolitan Council and the bye-election in the Garhwal parliamentary constituency, although the Law Minister to whom it was addressed was present. Since the Home Minister was busy in the other House the Deputy Chairman postponed the calling attention to 3.00 p.m. that day.<sup>88</sup>

The Deputy Chairman informed that the calling attention regarding inadequate supply of foodgrains to the States by the Centre had been postponed to some other day. Points were raised by members objecting to the eleventh hour postponement. The Leader of the House explained the position of non-availability of the concerned Minister who was out of station.<sup>89</sup>

The Deputy Chairman informed that the calling attention regarding occurrence of epidemic dropsy in certain parts of Delhi would be taken up at 4.00 p.m. No reasons were given.<sup>90</sup>

A calling attention was listed originally for 4 March 1986, in the list of business issued on 28 February 1986. It was deleted from the revised list of business. The Chairman explained that it was postponed so that members could have more time to participate in the discussion on the Motion of Thanks.<sup>91</sup>

A calling attention was taken up at 5.00 p.m. as ‘some members were anxious to go to receive a distinguished visitor and would not be able to participate in the discussion of the calling attention’.<sup>92</sup>

### **Mode of Calling the Attention**

On being called by the Chair, the member whose name appears first in the list of business under the item Calling Attention to a Matter of Urgent Public Importance, rises in his seat and calls the attention of the Minister mentioned in the item by reading out the text as given in the list of business. Only the text printed on the order paper goes on record and nothing extraneous that a member may introduce while reading the notice is permitted.

A calling attention was admitted on the reported refusal by Government to refer the following demands of the Central Government employees to arbitration, namely, (a) merger of DA with pay; (b) grant of need-based minimum wage to Central Government employees; and (c) the reported decision of the Confederation of the Central Government Employees to embark on a strike. The member, in whose name the calling attention stood, asked for permission not to read the third part of the item because it was not submitted by him in his notice. The member’s objection was that the particular organisation was only a paper organisation and had no representation on the Joint Consultative Committee. The member also stated that he had read upto (b) and the Chairman could allow anybody else to read out the rest. When the Chairman called the second member in the list to read out, another member contended that it was a new precedent, the first portion to be read out by one and the rest by some one else. The Chairman suggested that the member in whose name the calling attention stood should read out the next portion also as he did not want two or three members to read it. Thereafter, the member read part (c) also.<sup>93</sup>

A member while calling the attention stated: “May I call the attention of the Minister of Home Affairs to the question which I have raised about the agitation in support of the ‘Sati’ system in Rajasthan and Delhi”. A member rising on a point of order stated that “the calling attention was not properly presented to the House. Calling Attentions have to be introduced in the same words in which they appear in the

Order Paper". The Deputy Chairman asked the member concerned to read the item again.<sup>94</sup>

A member while calling the attention of the Minister started reading from his original notice instead of the text as given in the list of business. The Chair did not permit him to do so.<sup>95</sup>

When a calling attention regarding the difficulties of the people due to inadequate supply of essential commodities was called, members raised extraneous issues. The Deputy Chairman did not permit.<sup>96</sup>

If the member, on being called, is absent or does not wish to call the attention, the member listed next below, if any, is called. At this stage he does not ask for any clarification.

### **Circulation of copies of the Statement in the Chamber**

As per the established practice, copies of the statement of the Minister which he proposes to make in response to the calling attention are made available to the members just before the Minister starts reading it. Both the versions—English and Hindi—are required to be made available.<sup>97</sup>

During early days, it was not the practice to circulate copies of the proposed statement of the Minister beforehand. On an occasion, after the Minister made a statement in response to a calling attention, a member suggested that when an important issue was raised and the Minister made a long statement, "care should have been taken to circulate it beforehand so that members could follow the points; otherwise there was no use of discussing because it was a long statement". When the Chairman explained the practice, another member suggested that as the Minister started speaking, it could be circulated at least to those who had tabled the calling attention.<sup>98</sup> When such a suggestion was repeated in 1982, the Deputy Chairman observed that there was no such practice, however, it could be considered for the future.<sup>99</sup>

### **Statement by the Minister in response to Calling Attention**

#### *(a) Statement to be made*

After a member has called the attention of the Minister, the Minister concerned may make a brief statement or ask for time to make a statement at a later hour or date. Ordinarily, as per the practice, the Minister reads a prepared statement in response to the calling attention.

On an occasion, when the Minister, instead of reading the prepared statement, wanted to respond extempore, the Chair ruled that it was not the procedure and the Minister had to read the statement.<sup>100</sup>

The statement may be read by a Minister of State even though the Cabinet Minister in-charge of the Ministry concerned with the subject-matter of the calling attention is present in the House.

A point of order was raised that the initial statement in response to a calling attention regarding communal riots in the country should be made by the Prime Minister, who was also the Home Minister and was present, instead of the Minister of State. The Chairman ruled, "According to rules, joint and several responsibility is there. The Minister, who is here, can do the same. If he finds some difficulty, automatically the Prime Minister will reply at the appropriate time...There is no point of order because either of them, the Minister of State or the Cabinet Minister, can reply".<sup>101</sup>

Even if the subject of a calling attention may apparently fall within the purview of a Minister other than the one mentioned in the list of business, it is for the Government to decide who will deal with a particular calling attention.

When a calling attention regarding nuclear threat faced by India in the context of Pakistan's move to acquire and develop nuclear weapons was about to be responded by the Minister of State in the Ministry of External Affairs, a member suggested that it should have been dealt with by the Defence Minister. The Chairman observed, "It is for the Government to decide who will deal with it".<sup>102</sup>

If the subject-matter of a calling attention or any of its aspects falls within the jurisdiction of more than one Minister, a copy of the admitted calling attention is sent to each of them so that all the concerned Ministers may be present during the discussion and deal with the subject in so far as any of its aspects concerns them.

A calling attention regarding the strike of LIC employees was replied by the Minister of Finance. However, when some members contended that the Minister had not dealt with the demands of employees and when the Minister of Finance stated that he had received the notice only the last night and the Minister of Labour and Rehabilitation who was also present stated that he had not received the notice at all, the calling attention was postponed to give proper notice to both the Ministers. Accordingly, on the postponed day both the Ministers clarified the points falling in their respective jurisdictions.<sup>103</sup>

A calling attention notice regarding the reported recovery of Chinese balloons with propaganda materials in many parts of the country was addressed to the Minister of Home Affairs and a copy thereof was also endorsed to the Minister of External Affairs "so that the Minister of State for External Affairs, if he wanted to be here and intervene if he so chose".<sup>104</sup>

A calling attention notice which was initially intended to deal with the postponement of the Garhwal bye-election and addressed to the Minister of Home Affairs, was rephrased in a generally-worded subject and addressed to the Minister of Law. Upon some members objecting to this, the Deputy Chairman directed that the Home Minister should also be present in the House throughout the debate. The discussion on the calling attention commenced thereafter.<sup>105</sup>

*(b) Statement may be laid*

While responding to a calling attention generally the Minister concerned has to make a statement, on occasions he may be permitted to lay a copy of the statement on the Table in response thereto, and members may seek clarifications thereon later. In some cases, the Minister may make a brief statement or clarify the salient points contained in the statement and lay the detailed statement on the Table, with the permission of the Chair.

A calling attention regarding strike in Government of India Press came up at the fag-end of the sitting. The Minister laid on the Table the statement in response thereto and members sought clarifications thereon the next day.<sup>106</sup>

A member called the attention of the Minister of Law to the Supreme Court judgement regarding the validity of the Punjab Appropriation Acts. When the Minister was about to read the statement, the Deputy Chairman pointed out that the statement was about eight pages and sought the views of members whether it should be read or laid on the Table. The House agreed that the matter was technical and legal and the statement could be laid and clarifications thereon could be sought later on.<sup>107</sup>

At the request of the Minister, the calling attention regarding attempt of USA, UK and USSR to establish naval bases in the Indian Ocean came up at 4.00 p.m. But due to members raising another matter, the Minister could not make the statement. It was permitted to be laid.<sup>108</sup>

The statement in response to the calling attention regarding the strike and lockout in HMT in Bangalore consisted of eight pages. The Minister wanted to know whether he should read only the concluding paragraphs since the strike had ended. The statement was permitted to be laid and the Minister gave broad facts of the matter.<sup>109</sup>

The Minister of Finance made a brief statement in response to the calling attention regarding the large scale disinvestment in public sector undertakings and with the permission of the Deputy Chairman laid a more detailed statement on the Table. The statement ran into thirteen cyclostyled pages which had an annexure also.<sup>110</sup> Clarifications on the statement were taken up after a few days.<sup>111</sup>

A member called the attention of the Minister of Health and Family Welfare to the situation arising out of casualties during clinical trials in the country and the issues related thereto. Due to repeated interruptions in the House, the Minister of State in the Ministry of Health and Family Welfare laid the statement on the Table of the House with the permission of the Deputy Chairman. After statement was laid, the House was adjourned for the day.<sup>112</sup> Similarly, Minister of External Affairs was allowed to lay a statement in response to the calling attention regarding the repeated attacks on Tamil Nadu fishermen by Sri Lankan Navy due to continuous interruptions in the House. After statement was laid, the House was adjourned for the day.<sup>113</sup>

*(c) No separate Statement in response to Calling Attention*

On occasions when Ministers made statements *suo motu* on matters of public importance and the Chairman admitted calling attention on the same subject-matters subsequently, Ministers did not make statements again in response to the calling attention. The statements already made formed the basis of discussion on the calling attention.

On 18 March 1980, when the Chairman indicated that the Home Minister was going to make a statement on the burning of the Harijan huts in Moradabad, a member raised a point of order that since he had already given notice of a calling attention on that subject, the Minister had no right to make a statement before taking up the calling attention which was likely to be admitted for the next day. When the Chairman suggested that the Minister might postpone his statement till then, the Leader of the House relying on rule 251 stated that the Minister had a right to make a statement on the floor of the House on a matter of public importance irrespective of the fact whether a calling attention notice was pending or not. The Chairman agreed and stated that he would permit full debate on the subject the following day. This, however, did not satisfy the members. The House was adjourned earlier than the scheduled lunch-recess for consultation in the Chairman's Chamber. After the House reassembled, as directed by the Chairman, the Minister was permitted to make the statement. The calling attention was taken up on the next day. The Minister, however, did not make a fresh statement in response thereto, except adding some factual information to his earlier statement.<sup>114</sup>

The Minister made a *suo motu* statement on killings of Harijans in Mainpuri (U.P.). A calling attention on the same subject was admitted on the next day. The Minister did not make any statement again in response thereto saying that he had nothing more to add to what he had already stated in the statement on the previous day. Thereafter, members sought clarifications.<sup>115</sup>

The Minister made a statement on the situation in Punjab. Members demanded that there should be a discussion thereon. The House agreed that the statement would be taken up as in response to a calling

attention and members would seek clarifications thereon. No separate statement was made in response to the calling attention, nor was the calling attention formally called, though the list of business listed the item in the names of members from whom notices for calling attention and the order in which requests for clarifications on the previous day's statement of the Minister were received.<sup>116</sup>

The Minister made a statement regarding increase in the prices of petroleum products. A calling attention on the same subject was admitted on the next day. No separate statement was made in response to the calling attention. However, for technical purposes, the calling attention item was listed in the list of business. The member was asked to formally call the attention of the Minister and thereafter members sought clarifications thereon.<sup>117</sup>

However, on occasions, a Minister has made a *suo motu* statement on a subject, the Chairman admitted a calling attention also on that subject for a subsequent sitting and the Minister has again made a new statement in response to the calling attention.

The Minister of State in the Ministry of Home Affairs made a statement on 13 March 1968 regarding stabbing of Justice A.N. Grover of the Supreme Court. A calling attention on the same subject was admitted for 14 March 1968 and the Home Minister made a statement in response to the calling attention.<sup>118</sup>

On 10 May 1968, the Minister of State in the Ministry of Home Affairs made two statements—one regarding the judgement of the Punjab and Haryana High Court in respect of the Punjab Appropriation Acts of 1968 and the other regarding refusal of the High Court to issue a stay order in the matter. A calling attention on the constitutional crisis in Punjab arising out of the High Court's judgement holding the Appropriation Acts *ultra vires* was admitted for 11 May 1968 and the Minister of Home Affairs made a statement in response to the calling attention.<sup>119</sup>

The Minister of State in the Ministry of Home Affairs made a statement on 7 March 1969 regarding the Address delivered by the Governor of West Bengal to the members of both Houses of West Bengal Legislature on 6 March 1969. A calling attention on the constitutional implications of the Centre's attitude in regard to the demand for the recall of the Governor of West Bengal was admitted for 7 March 1969. The Minister of Home Affairs made a statement in response to the calling attention.<sup>120</sup>

The Minister of State in the Ministry of Home Affairs made a *suo motu* statement regarding premature retirement of the Director of Lal Bahadur Shastri National Academy of Administration, Mussoorie on 5 March 1982.

The Deputy Chairman informed that a calling attention on the subject would be taken up on 8 March 1982. Accordingly, when it was taken up another Minister of State in the Ministry of Home Affairs made a fresh statement in response to the calling attention<sup>121</sup> which was more or less similar to the earlier one.

*(d) Postponement of time to make a Statement*

As earlier stated, the Minister may ask for time to make a statement at a later hour or date.

When a member was about to call the attention of the Minister of Home Affairs to the observations of the Supreme Court regarding use of DIR, the Minister of State in the Ministry of Home Affairs stated that he would be available to make the statement only at 5.00 p.m. that day. When the concerned member objected to this, the Chairman stated, "The Government are entitled to ask for time and I have allowed them to make the statement at 5 O'clock".<sup>122</sup>

The calling attention regarding explosion of hydrogen bomb by China was admitted for 20 June 1967. The Minister of Defence requested that he be permitted to make the statement next day 'before the House rises' because he was making the statement in the other House also that day. The Chairman announced that the statement would be made at 2.30 p.m. that day. A member raised a point regarding postponement of the calling attention on the ground mentioned by the Minister. After some objections, the Chair assured that it would be made at 12.00 Noon the next day. It was accordingly made.<sup>123</sup>

The Deputy Chairman announced that the calling attention regarding shortage of wagons for lifting oranges at Nagpur would be taken up at 2.00 p.m. as requested by the Deputy Minister of Railways on the ground that information sought in the calling attention was neither available in the Railway Board nor with the Headquarter of Central Railway at Bombay and the same had to be collected from the Divisional Manager, Nagpur. By the time the House was deciding, the concerned Minister came to the House and reiterated the position. The Deputy Chairman quoting rule 180 conceded the right of the Minister to ask for time but observed, "Ministers should be ready with the information when they are informed and they should not usually and unnecessarily ask for any postponement".<sup>124</sup>

As agreed at a meeting of leaders with the Deputy Chairman, the calling attention regarding alleged collection of funds by the Chief Minister of Maharashtra was formally taken up on 1 September 1981. The Minister of Finance stated that he would make a statement on the next day since he was getting all the facts. The statement was accordingly made on 2 September 1981.<sup>125</sup>

### **Calling Attention of an absent member**

If the member or members in whose name(s) the calling attention stands is or are absent or he or they decline to call the attention as per the text in the list of business, the practice followed in the matter of making or laying on the Table the statement by the Minister has not firmly settled. Sometimes the statements have been laid;<sup>126</sup> at other times this has not been done.<sup>127</sup>

The concerned member, when asked to call the attention (regarding exodus of architects), sought to make submissions instead of calling the attention. The Deputy Chairman did not permit but the member continued to speak which was ordered not to be recorded. The member next listed when asked, also did not do so. The Deputy Chairman declared, "There is no business now. The Minister can go" and proceeded to the next item in the list of business.<sup>128</sup>

The only member in whose name a calling attention regarding sugarcane prices stood, was not present. When another member pleaded that the Chair should use the discretion and permit other members to seek clarifications, the Deputy Chairman declined pointing out that only the member in whose name the calling attention stood had the right to raise it; thereafter, only others could ask questions. Since the member was not present, the calling attention could not be taken up.<sup>129</sup>

When members in whose names a calling attention regarding inadequate supply of essential commodities stood, started raising extraneous issues instead of calling the attention, the Deputy Chairman did not permit them. The calling attention could not be taken up that day or on any other subsequent day.<sup>130</sup>

### **Procedure for seeking clarifications**

There can be no debate on such statement at the time it is made.<sup>131</sup> However, members are permitted to seek clarifications on the statement. A member who initiates a calling attention first seeks the clarification. He is not to take more than seven minutes and other members who are called by the Chairman are not to take more than five minutes each and should restrict themselves strictly to seeking clarifications on the statement and avoid making long speeches.

In July 1979, it was decided that the time allotted to the initiator of a calling attention should not be more than five minutes.<sup>132</sup> The procedure was reviewed at a meeting of the leaders held on 19 June 1980 and it was decided that a member who initiated a calling attention should not take more than seven minutes. The Chairman announced in the House accordingly.<sup>133</sup>

### Order of calling members for seeking clarifications

Where a calling attention stands in the names of a number of members, in choosing members who desire to seek clarifications, the first principle is party/group. After exhausting the parties/groups, whose members have given the notices by calling one member from each party/group, the Chairman may call members belonging to parties/groups not in the list.<sup>134</sup> In other words, names of members are not called in the order in which they appear in the list of business nor is it obligatory for the Chairman to call all those whose names appear in the list of business. So far as small groups are concerned, the Business Advisory Committee recommended, *inter alia*, that one member from each party or group consisting of at least five members should be permitted to seek clarifications. A group of less than five and Independents and others should be represented by one member by rotation.<sup>135</sup> However, when this recommendation was announced, some members expressed their reservations to the adoption of this practice.<sup>136</sup>

The Business Advisory Committee at its meeting held on 16 July 1991, considered the procedure to be adopted for seeking clarifications on a calling attention and recommended that the earlier practice of permitting one member from each party/group to seek clarification on a calling attention be adhered to.<sup>137</sup>

On an occasion, the Chair observed that after six speakers from the list had spoken he would give opportunity to each of the other parties also.<sup>138</sup> On another occasion, the Chairman observed, "I am trying to see that every political party represented here gets a chance. I cannot allow three or four people from the same party to get up and speak."<sup>139</sup> On an occasion, the Deputy Chairman observed, "Following an earlier convention, I have called one from every party. There are five members from the Congress Party, I have called one."<sup>140</sup>

The following illustration will explain the practice being followed in calling members to seek clarifications.

#### *Illustration*

Suppose on a calling attention, there are fifteen members whose names appear in the list of business in the following order—

The first three belong to a party 'A', the next two belong to a party 'B', the next four belong to a party 'C', the next two again belong to the party 'A', the next one belongs to a party 'D', the next two belong to a party 'E' and the last one again belongs to the party 'B'.

The first member belonging to the party 'A' will first call the attention and after the Minister's statement in response, ask for clarifications. Other members of the same party in the list will not be called and the next member to be called will be from the party 'B' and so on.

Only after exhausting a member each from each of the parties reflected in the listed calling attention item, other members' requests for being called may be entertained by the Chair. If any party's Leader/Whip desires to substitute a member whose name does not appear in the list for a member whose name appears, the new member takes his turn after exhausting all the names already in the list and not at the place of the member of his party who figures in the list.

In this context, the Rules Committee considered a suggestion that names of members under the calling attention item should be restricted to five to be determined by ballot and only those members whose names appear in the list of business should be called to seek clarification and none else merely on the basis of party list. As directed by the Committee, the suggestion was circulated to leaders of various parties and groups in the Rajya Sabha for eliciting their views. The leaders did not agree to the suggestion. The Rules Committee, therefore, recommended that the existing practice of clubbing of names and calling members to seek clarifications on a calling attention might continue.<sup>141</sup>

### **Postponement of clarifications**

Sometimes in view of the importance of the subject or with a view to enabling members to study a statement made by the Minister in response to a calling attention, the House may decide to defer seeking of clarifications thereon.<sup>142</sup>

### **Time-limit for seeking clarifications**

At a meeting of leaders of parties/groups held with the Chairman in August 1970, it was decided that a member who initiated the calling attention should not take more than five minutes and the time to be given to the other members for seeking clarifications would be within the discretion of the Chair.<sup>143</sup> Subsequently, at a meeting of the leaders held on 19 June 1980, with a view to streamlining the procedure, the broad consensus arrived in regard to the time-limit for seeking clarifications was that a member who initiated a calling attention should not take more than seven minutes and other members who would be called by the Chair should not take more than five minutes each and should restrict themselves strictly to seeking clarifications and avoid making long speeches.<sup>144</sup>

### **Reply to clarifications**

Till early eighties, generally the practice was that the Minister had to give reply separately to each clarification asked by a member.<sup>145</sup> Sometimes, however, the House used to agree to the Minister giving one reply at the end of all clarifications.

On an occasion, it was suggested that in view of the importance of the subject-matter of the calling attention, namely, communal riots in the country with particular reference to incidents in Aligarh, the Prime Minister should reply to all the clarifications at the end. This was agreed.<sup>146</sup>

On another occasion, the Chairman announced that the calling attention should be finished in one hour as agreed by leaders and nobody should take more than five minutes to speak. Shri B.N. Banerjee, former Secretary-General who then was a member stated, “In the Calling Attention the usual practice is that members speak and the Minister replies. Since you are limiting time to enable members to express their views, it will be better that the members may speak and as a special case the Minister replies at the end.” The Chairman directed the Minister to make a note of points and give one consolidated reply.<sup>147</sup>

At a meeting of the leaders held on 15 September 1981, it was agreed that as a special case, the Minister would reply at the end of all the clarifications.<sup>148</sup> On 20 October 1982, the Deputy Chairman announced at the beginning of a calling attention on strike in Delhi University:

It has been agreed that members will make their observations, put their questions and clarifications and reply at the end once only... that has been agreed by all the parties ...the leaders have agreed.<sup>149</sup>

But again in 1983, the previous practice of giving individual reply to each clarification was revived.<sup>150</sup> On one occasion, a suggestion for a consolidated reply was not even agreed to.<sup>151</sup> On 15 March 1983, for sometime separate replies were given and at the suggestion of the Vice-Chairman, towards the end, a consolidated reply was given to clarifications “due to need to conserve time”.<sup>152</sup> On 21 December 1983, after the first reply to the clarifications sought by the member who had raised the calling attention, at the suggestion of the Deputy Chairman, a consolidated reply was given to the other members’ clarifications.<sup>153</sup> On an occasion, members sought clarifications on one day and the Minister replied on a subsequent day.<sup>154</sup> On another occasion, which was perhaps the solitary one, after the House discussed the calling attention for nearly three and a half hours the discussion was stopped as the concerned Minister had to go to the Lok Sabha for voting on the no-confidence motion there. The discussion remained inconclusive.<sup>155</sup>

The current practice which has been settled since 1984 is that after members seek clarifications on the statement of the Minister, he gives a reply to all of them together at the end.<sup>156</sup>

### **Correcting the statements or further clarifying points**

On occasions, Ministers have also made further statements correcting their earlier statements made in response to or during the course of a calling attention or for further clarifying points. Such statements have been either made or laid on the Table of the House, after the conclusion of a listed calling attention, if any, or immediately after questions.

On 3 April 1967, the Deputy Prime Minister and Minister of Finance made a statement regarding certain matters raised in relation to the statement made by him on 29 March 1967, in response to a calling attention about the renewal of contract of a Publicity Consultant to the Indian Embassy, Washington.<sup>157</sup>

On 18 August 1967, the Minister of State in the Ministry of Petroleum and Chemicals made a statement regarding assurance given by him in the course of replies to certain points arising out of a calling attention matter raised on 31 July 1967.<sup>158</sup>

On 28 August 1970, the Minister of State in the Ministry of Home Affairs made a statement correcting his earlier statement made in response to a calling attention on 3 August 1970.<sup>159</sup>

On 3 September 1970, the Deputy Minister of Finance made a statement correcting his earlier statement in response to a calling attention on 19 May 1970.<sup>160</sup>

On 4 September 1970, the Minister of Education and Youth Services laid on the Table a statement correcting his earlier statement made in response to a calling attention on 10 August 1970.<sup>161</sup>

On 11 November 1970, the Minister of State in the Ministry of Petroleum and Chemicals and Mines and Metals made a statement correcting replies given by him to certain questions arising out of the statement made in response to a calling attention on 17 March 1970.<sup>162</sup>

On 30 July 1971, after the disposal of the listed calling attention a member was permitted to seek clarifications on the discrepancies between replies given during the calling attention statement by the Minister of Steel and Mines in the Rajya Sabha on 10 June 1971, and answer given to the unstarred question no. 472 in the Lok Sabha on 27 May 1971, on the issue of industrial licences for the setting up of mini steel plants in the private sector. The Minister concerned replied to the points raised.<sup>163</sup>

### **Time for conclusion of Calling Attention**

At a meeting of leaders of parties/groups in the Rajya Sabha in 1970 it was decided, *inter alia*, that normally no calling attention should exceed thirty minutes and in any case it should be disposed of before the House

adjourned for the lunch-recess. The General Purposes Committee recommended that not more than one hour should be taken for the purpose. After that period was over, it should be left completely to the discretion of the Chair whether or not to allow any other member who desired to participate in the discussion. In any case, a calling attention should be so arranged that all the miscellaneous business on the list of business, other than the legislative or other regular business, should be disposed of before the House adjourned for the lunch-recess.<sup>164</sup>

Notwithstanding these recommendations, there have been many occasions when calling attention matters have continued beyond the lunch-recess of the House, or for the whole day or spilled over to the next or subsequent day<sup>165</sup> depending on the importance of the subject or the consensus in the House. Some of the important calling attention matters which have occupied four hours or more were:

Strike of Development Officers of LIC (4.04 hrs.);<sup>166</sup> disturbances in Jamshedpur (two days - 9.38 hrs.);<sup>167</sup> arms aid to Pakistan by USA (4.34 hrs.);<sup>168</sup> communal incidents in and around Bihar Sharif (4.32 hrs.);<sup>169</sup> irregularities in grant of income tax exemptions to certain Trusts in Maharashtra (two days - 5.32 hrs.);<sup>170</sup> mass conversion of Harijans to Islam in Tamil Nadu (4.46 hrs.);<sup>171</sup> inadequacies in electoral law (4.00 hrs.);<sup>172</sup> violence and vulgarity in films (4.30 hrs.);<sup>173</sup> floods and drought (4.00 hrs.);<sup>174</sup> developments in J&K (6.08 hrs.);<sup>175</sup> non-implementation of the Punjab Accord (4.11 hrs.);<sup>176</sup> agitation of GNLF (4.43 hrs.);<sup>177</sup> engagement of Fair-fax agency (5.16 hrs.);<sup>178</sup> functioning of media (4.16 hrs.);<sup>179</sup> communal incidents (5.00 hrs.);<sup>180</sup> inadequate supply of essential commodities (5.24 hrs.);<sup>181</sup> communal situation (three days - 9.14 hrs.);<sup>182</sup> plight of handloom weavers (4.17 hrs.);<sup>183</sup> price situation (4.53 hrs.);<sup>184</sup> drought situation (4.37 hrs.);<sup>185</sup> bomb explosions in Bombay on 12.3.1993 (6.20 hrs.);<sup>186</sup> situation in J&K (5.22 hrs.);<sup>187</sup> flood situation (4.03 hrs.);<sup>188</sup> disinvestment in PSUs (three days - 4.00 hrs.);<sup>189</sup> funds for PSUs (4.51 hrs.);<sup>190</sup> system of counter guarantees and other assurances given by the Government in the context of foreign investment in Power Sector (4.52 hrs.);<sup>191</sup> situation arising out of the air-dropping of lethal weapons in Purulia posing a threat to National Security (4.05 hrs.);<sup>192</sup> increasing insurgency in the North-Eastern States (5 hrs.);<sup>193</sup> diversion of funds to the tune of Rs. 45000 crores to the Personal Ledger Account by the West Bengal Government (4.30 hrs.);<sup>194</sup> poor performance and mismanagement of Air India (4.14 hrs.);<sup>195</sup> internal security problem with reference to the State of Jammu & Kashmir (4.13 hrs.);<sup>196</sup> the sale of BALCO at an abnormally low price (6.47 hrs.);<sup>197</sup> extreme volatility in the stock markets (4.35 hrs.);<sup>198</sup> policy of disinvestment in PSUs (4.51 hrs.);<sup>199</sup> circulars of UGC and the NCERT curriculum framework in the context of national policy on education (5.23 hrs.);<sup>200</sup> storming of the disputed site at Ayodhya by VHP thereby flouting the Supreme Court directives (3.26 hrs.)<sup>201</sup>; situation arising

out of growing labour unrest (3.28 hrs.)<sup>202</sup>; situation arising out of disputes over the sharing of inter-State river waters of Cauvery and Krishna Rivers (2.59 hrs.)<sup>203</sup>; implementation of Conditional Access System and criteria for uplinking for foreign channels (4.00 hrs.)<sup>204</sup>; exorbitant rise in the prices of petroleum products (3.29 hrs.)<sup>205</sup>; loss of human lives, properties and business in Mumbai and other parts of Maharashtra due to the unprecedented rains (4.09 hrs.)<sup>206</sup>; and progress of relief to the victims of 1984 riots (4.27 hrs.)<sup>207</sup>.

### **Conversion of Calling Attention into discussion**

On many occasions, in view of the importance of the subject and consensus or demand in the House, a calling attention has been converted into full-fledged discussion in the form of motion<sup>208</sup> or short duration discussion,<sup>209</sup> after the concerned Minister responded to the calling attention. Such discussion has taken place the same day on which the calling attention was raised or on the next or subsequent day.

The Minister of Home Affairs stated in response to a calling attention regarding IB Report on use of foreign funds in elections that the Report had been received recently and was being examined carefully and that Government would take time to formulate the conclusions thereon. The Chairman did not permit anything more on that statement and informed the House that there would be a discussion on that at 4.00 p.m. that day itself. The discussion was initiated by the same member who had raised the calling attention.<sup>210</sup>

A member called the attention to the disclosures made by a former CIA man about the activities of the CIA in this country and the Minister made a statement in regard thereto. During the course of clarifications, a member suggested that the matter should be fully discussed in the House. The Chairman agreed and the calling attention was not proceeded with further.<sup>211</sup> The matter was accordingly discussed on a motion moved by a member.<sup>212</sup>

In the midst of a calling attention regarding forcible entry of policemen into West Bengal Legislative Assembly, some members suggested that the matter called for a full debate. This was agreed to and the calling attention was not proceeded further. A short duration discussion was held the next day.<sup>213</sup>

The Minister made a statement in response to a calling attention regarding allegations of use of money power in the biennial elections to the Rajya Sabha and its implications on the working and preservation of parliamentary democracy. On a suggestion made by some members, the Chairman agreed to allow a discussion on the subject. Before the House adjourned *sine die*, on 4 April 1970, the Vice-Chairman announced that the discussion would be held in next session (72<sup>nd</sup>). A short duration discussion was however held on 28 July 1970, during the 73<sup>rd</sup> Session.<sup>214</sup>

A calling attention regarding the influx of refugees was admitted for 27 July 1970 and the concerned Minister made a statement in response thereto. There was a demand that the matter should be discussed fully. The Chairman agreed to allow a discussion on the subject immediately after laying of the papers on the same day. The member who had earlier called the attention moved a motion to take into consideration the influx of refugees. The motion, after discussion, was adopted by the House in an amended form.<sup>215</sup>

Before the concerned member was called to raise the calling attention regarding heavy loss of life and property in Tamil Nadu and Pondicherry due to floods, the Chairman informed that on a suggestion of a number of members he agreed to expand the scope of the calling attention to include the drought situation in certain parts of the country so that the calling attention would deal with not only floods in Tamil Nadu but also cover both the drought and the flood situations. The member concerned, therefore, called the attention accordingly. Thereafter, the Chairman also announced that since the scope was widened, it should be taken up not as a calling attention but as a short duration discussion. After the Minister read out the statement, the Deputy Chairman stated that since it was a short duration discussion, names would be called party-wise with the exception of the member who called the attention would initiate the discussion as well. The calling attention thereafter proceeded as a short duration discussion.<sup>216</sup>

On an occasion, a calling attention notice on price situation was admitted and listed in the list of business. However, in the revised list of business the subject was listed under short duration discussion. The calling attention was in the names of some members; the short duration discussion was in the names of some other members.<sup>217</sup>

The Minister of Home Affairs made a statement on 27 April 1970, in response to a calling attention regarding lathi-charge and tear-gas by police on SSP demonstrators in New Delhi on 6 April 1970. On 28 April 1970, a member moved a motion to take the statement of the Home Minister into consideration. The motion was adopted in the following form:

That the statement made by the Home Minister in the Rajya Sabha on 27 April 1970, be taken into consideration, and having considered the same, this House views with grave concern the happenings of 6 April 1970, in connection with the SSP demonstration in and around Patel Chowk in New Delhi.<sup>218</sup>

Sometimes without formally converting a calling attention into a short duration discussion the Chair may, sensing the desire of members, permit more members to speak.<sup>219</sup>

### **Calling Attention on a *sub judice* matter**

A point of order was raised regarding a calling attention on Government's decision to hold mid-term poll in Kerala, on the ground that the subject was pending before the High Court. The Chairman ruled:

A calling attention is not a motion. It does not involve discussion. Those who are calling the attention of the Government want to know from Government what are the facts and what is the position of the Government...No discussion is involved. In a calling attention only questions are put for clarification from Government.<sup>220</sup>

On another occasion, in regard to the admission of a calling attention regarding decision of the Medical Council of India to hold an All-India Entrance Examination, the Minister pointed out at the time of making the statement in response to the calling attention that the matter was *sub judice*, she had already informed the Secretariat accordingly and did not know why it was admitted. However, since the calling attention was admitted the Minister had to make the statement. But in reply to clarifications, which went on for an hour or so, the Minister merely stated, "I am not going to say anything beyond my statement...because the matter is *sub judice*. I will request the honourable members not to insist on it."<sup>221</sup>

### **Important subjects raised through Calling Attention**

Since last more than five decades, the calling attention procedure has been in the Rajya Sabha Rules. A number of subjects have been raised in the House through this device. Some of the constitutional, election, judicial matters and other miscellaneous subjects so raised in the House are listed below:

#### *(a) Constitutional matters*

Detention of a number of persons elected to Kerala Legislative Assembly in the mid-term elections and its effect on the normal constitutional process taking its course in the formation of a Government in that State;<sup>222</sup> constitutional implications of the action of the Governor of Rajasthan ordering removal of certain members of Rajasthan Assembly at the time of his Address to the Assembly on 26 February 1966;<sup>223</sup> refusal of Governor of Rajasthan to invite non-Congress parties to form a Government in that State and imposition of President's Rule in Rajasthan;<sup>224</sup> constitutional crisis in Madhya Pradesh due to sudden prorogation of the State Vidhan Sabha by the Governor on 20 July 1967;<sup>225</sup> constitutional crisis in West Bengal;<sup>226</sup> constitutional crisis in Punjab due to adjournment of the State Assembly by the Speaker for two months with the budget still pending there;<sup>227</sup> constitutional implications of the Centre's attitude in regard to the demand for the recall of the Governor of West Bengal;<sup>228</sup> refusal to administer the

oath/affirmation to some members of UP Legislative Assembly in Urdu language;<sup>229</sup> constitutional crisis in Madhya Pradesh;<sup>230</sup> forcible entry of policemen in West Bengal Legislative Assembly while it was in session on 31 July 1969;<sup>231</sup> constitutional crisis in Tamil Nadu;<sup>232</sup> constitutional crisis due to adjournment of the Nagaland Legislative Assembly *sine die* without passing the Budget;<sup>233</sup> dissolution of J&K Assembly on the advice of the Chief Minister of that State;<sup>234</sup> constitutional crisis in Assam due to prorogation of the Assam Legislative Assembly and promulgation of an Ordinance by the Governor for appropriation of money from the Consolidated Fund of the State;<sup>235</sup> promulgation and repromulgation of Ordinances in States;<sup>236</sup> resolution passed by the Andhra Pradesh Legislative Assembly for abolition of the Legislative Council of that State;<sup>237</sup> delay in assenting to Bills passed by State Legislatures and reserved by Governors for the consideration of the President;<sup>238</sup> continued suspended animation of J&K Legislative Assembly;<sup>239</sup> and permission given by the Government of India to the Government of Andhra Pradesh for introduction of Andhra Pradesh Special Powers (Press) Bill.<sup>240</sup>

(b) *Election matters*

Postponement of a bye-election in Nohar Assembly Constituency of Rajasthan;<sup>241</sup> revision of the electoral rolls of Basti Julahan Ward in the Sadar Parliamentary Constituency of Delhi for a bye-election to the Delhi Municipal Corporation;<sup>242</sup> decision to hold mid-term poll in Kerala;<sup>243</sup> result of the enquiry conducted by the Deputy Chief Election Commissioner on the surplus ballot papers found in Chandigarh;<sup>244</sup> incidents of violence and preventing voters from casting their votes during elections in some States;<sup>245</sup> inadequacies in the electoral law in not providing a specific period for completion of a bye-election to Parliament;<sup>246</sup> and delay in holding election to Delhi Metropolitan Council and bye-election in Garhwal Parliamentary Constituency.<sup>247</sup>

(c) *Judicial matters*

Supreme Court observations in its judgement in the case of *G. Sadanandan v. State of Kerala and Others* (Writ Petition No. 136 of 1965) regarding continuous use of DIR;<sup>248</sup> reported resignation of a Judge of the Calcutta High Court on grounds of status, prestige, emoluments and various service conditions undermining the dignity of the judiciary<sup>249</sup> Supreme Court judgement in the matter of the validity of the Punjab Appropriation Acts with particular reference to the implications thereof on the powers of the Legislature and the presiding officer;<sup>250</sup> stabbing of Mr. Justice A.N. Grover of the Supreme Court in Chief Justice's room on 13 March 1968, while the Court was in session;<sup>251</sup> Supreme Court decision on the Writ Petitions challenging the Presidential Order derecognising the Rulers;<sup>252</sup> Supreme Court judgement on the Mulki Rules;<sup>253</sup> arbitrary transfer of Chief Justice of the Allahabad High Court to the Karnataka High Court;<sup>254</sup> proposed mass casual leave by Additional and District Sessions Judges and their protest march to the

Parliament House;<sup>255</sup> prosecution of a BHEL manager on the alleged charge of giving information to Members of Parliament regarding BHEL-SIEMENS Agreement;<sup>256</sup> resignation of Justice Srivastava of the Allahabad High Court due to alleged harassment by Government agencies;<sup>257</sup> and Supreme Court decision setting aside the election of a candidate on the ground of use of electronic machine for voting in some booths in Parur Assembly Constituency in Kerala, as having no legal sanction.<sup>258</sup>

(d) *Miscellaneous matters*

Tapping of telephone of Chief Minister of Punjab;<sup>259</sup> statement made by a former editor of a newspaper at Poona regarding Nathuram Godse's plan to assassinate Mahatma Gandhi;<sup>260</sup> progress of investigation into Sardar Pratap Singh Kairon's assassination;<sup>261</sup> purchase of the original manuscript of Gitanjali by an American citizen;<sup>262</sup> Z.A. Bhutto's statement before the Custodian-General of Evacuee Property in India that he was an Indian national;<sup>263</sup> assurance of the Leader of the House in the Rajya Sabha on 19 May 1966, regarding observations contained in the 50th Report of the PAC and Government's decision to post the concerned officer as India's Ambassador at Brussels;<sup>264</sup> missing of important documents relating to the Kutch dispute;<sup>265</sup> unwillingness of the Union Home Ministry to furnish to Government of Orissa an official copy of the CBI Report and Cabinet sub-committee's findings on certain allegations against former Chief Minister;<sup>266</sup> report in New York Times about CBI's conclusion that USA had spent vast sums of money to influence last general election;<sup>267</sup> Prime Minister's message of congratulations to the President of Pakistan on the completion of the Mangla Dam;<sup>268</sup> burning of the national flag and the Constitution by anti-Hindi demonstrators in certain parts of Tamil Nadu;<sup>269</sup> refusal of US Embassy, New Delhi to receive the summons of a Delhi Magistrate;<sup>270</sup> insulting behaviour of the Secretary, Ministry of Law (Department of Legal Affairs) towards the Deputy Minister of Law, Shri Mohd. Yunus Saleem;<sup>271</sup> formation of a Communist Party of India on Mao's ideas;<sup>272</sup> statement of Chief Minister of Kerala regarding undermining the Constitution from within;<sup>273</sup> decision to shift location of Gandhiji's statue from India Gate;<sup>274</sup> suggestion of Gen. K.M. Cariappa for scrapping the Constitution, imposition of President's Rule in the country and administration by the army;<sup>275</sup> request of the Tamil Nadu Government for a separate State Flag;<sup>276</sup> Pakistani spy-ring operating in West Bengal and alleged involvement of some ex-Ministers of Government of West Bengal and a Member of Parliament from that State therein;<sup>277</sup> increase in postal rates on the eve of Parliament session;<sup>278</sup> reported removal of a letter written by the President of the BLD from the files of the Election Commission about party's election symbol;<sup>279</sup> exchange of correspondence between the Prime Minister and former Home Minister;<sup>280</sup> violent incident in Calcutta in which Shri Jayaprakash Narayan's car was attacked and a Member of Parliament and his colleague sustained injuries;<sup>281</sup> detention in prisons of a large number of political prisoners under MISA, DIR, etc.;<sup>282</sup> victimisation of journalists by newspaper managements;<sup>283</sup> installation of a puppet Black Government in Zimbabwe;<sup>284</sup> hunger strike by an MP in support of

demand to curb oppression of *Harijans*;<sup>285</sup> reported disclosures of certain confidential correspondence between the former President, Shri N. Sanjiva Reddy and the former Prime Minister, Shri Morarji Desai;<sup>286</sup> follow-up action on the JPC Report on securities scam;<sup>287</sup> need of having a national consensus for India's Nuclear Policy with reference to Nuclear Non-Proliferation Treaty;<sup>288</sup> the situation arising out of the air-dropping of lethal weapons in Purulia posing a threat to the National Security;<sup>289</sup> situation arising out of the disinvestment of profit-making Central Public Sector Units due to lack of financial support and timely decisions;<sup>290</sup> Securities Scam in Co-operative Banks and failure of the Central Government Regulations and remedial measures taken by Government with regard thereto;<sup>291</sup> issues arising out of the decision of the VSNL Board to invest Rs. 1200 crores in TATA Tele Services Ltd.;<sup>292</sup> suicides committed by cotton growers in Maharashtra and other parts of the country;<sup>293</sup> problems of sugarcane growers;<sup>294</sup> crisis in the plantation sector, namely, tea, coffee, rubber, etc. and the steps taken by the Government in this regard;<sup>295</sup> closing down of fertilizer plants of the Hindustan Fertilizer Corporation and the Fertilizer Corporation of India particularly in the eastern region of the country;<sup>296</sup> poisonous effect on wheat, rice, sugar and other food items on being packaged in plastic bags;<sup>297</sup> situation arising out of growing labour unrest caused by loss of jobs, violation of labour laws, closure of units, privatisation of PSUs, etc.,<sup>298</sup> faulty public distribution system;<sup>299</sup> Foreign Direct Investment in Electronic Media;<sup>300</sup> situation arising out of disputes over the sharing of inter-state river waters of Cauvery and Krishna rivers and action taken by Government with regard thereto;<sup>301</sup> implementation of Conditional Access System and criteria for uplinking for foreign channels;<sup>302</sup> plight of tea garden workers due to sickness and closure of a large number of tea gardens leading to starvation deaths;<sup>303</sup> death of children recently due to malnutrition and starvation in Maharashtra;<sup>304</sup> incidents of suicide by farmers in various parts of the country and remedial measures taken by Government with regard thereto;<sup>305</sup> irregularities in disinvestment of Centaur Hotel, Mumbai and violation of shareholders agreement in post disinvestment period;<sup>306</sup> climate change;<sup>307</sup> relief to victims of 1984 riots;<sup>308</sup> role of print and electronic media including the paid news;<sup>309</sup> irregularities in the functioning of the Medical Council of India (MCI);<sup>310</sup> rotting of food grains due to lack of storage facilities;<sup>311</sup> utilisation of agricultural land for non-agricultural purpose;<sup>312</sup> frequent accidents in railways and rail safety;<sup>313</sup> discrimination and racial profiling faced by students from north-eastern States;<sup>314</sup> removal of uterus of females of BPL in Bihar and various parts of the country under NRHM programmes;<sup>315</sup> all India strike by workers of organised and unorganised sector;<sup>316</sup> situation arising out of repeated attacks on Indian fishermen by Sri Lankan Navy;<sup>317</sup> pollution on sea beaches in Goa caused by tar balls formed due to discharge from sea vessels;<sup>318</sup> plight of stranded workers from India in Iraq;<sup>319</sup> move by the Government to introduce changes in the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) by reducing the wage component of the fund allocation and restricting the areas of work;<sup>320</sup> etc.

## NOTES AND REFERENCES

1. Old Rule 156.
2. Summary of the Proceedings of the meeting of the Committee on Rules, 3.6.1952 and 9.7.1952; F. No. CS/3/52-L.
3. Brochure entitled *Questions and Adjournment Motions in Second Chambers*, June 1952.
4. C.S. Deb., 16.5.1952, c. 44-45.
5. Later renumbered as Rule 175.
6. May, p. 475.
7. Bn. (II), 1.7.1964.
8. R. 180; *see also* R.S. Deb., 26.11.2014, pp. 319-36; Bn. (II), 26.11.2014.
9. Bn. (II), 11.8.1964; *see also* R.S. Deb., 12.8.1968, c. 28-74; and 14.8.1968, c. 3401-02.
10. R.S. Deb., 23.5.1979, c. 1-3; Bn. (II), 23.5.1979 and 6.7.1979.
11. *See* for instance, Bn. (II), 3.2.1994.
12. R.S. Deb., 19.8.1968, c. 3477-79.
13. 2 Rpt., COR, p. 12, 21, 27.
14. R.S. Deb., 23.5.1979, c. 1-3; and Bn. (II), 23.5.1979.
15. 2 Rpt., COR, p. 3.
16. R.S. Deb., 24.12.1981, c. 502.
17. *Ibid.*, 15.12.1981, c. 162-68.
18. 2 Rpt., COR.
19. R. 180(1), *Proviso*.
20. 2 Rpt., COR, p. 21.
21. R.S. Deb., 6.5.1986, c. 184.
22. *Ibid.*, 13.12.1985, c. 200-02.
23. *Ibid.*, 14.8.1968, c. 3387-3402; 19.8.1968, c. 3470-79; *See also* R.S. Deb., 3.5.1978, c. 131-38.
24. *Ibid.*, 6.5.1986, c. 183-85.
25. Bn. (II), 4.12.1971.
26. R.S. Deb., 21.7.1975, c. 33-44.
27. *Ibid.*, 3.11.1976, c. 38-49.
28. Bn. (II), 20.9.1976.
29. *Ibid.*, 27.10.1976.
30. R.S. Deb., 26.3.1985, c. 184-86.
31. *Ibid.*, 19.8.1968, c. 3477-79.
32. *Ibid.*, 4.8.1978, c. 106.
33. *Ibid.*, 15.3.1989, c. 1-4; and 16.3.1989, c. 1-8.
34. *Ibid.*, 19.6.1967, c. 4659-62.
35. *Ibid.*, 21.3.1975, c. 116-18.
36. *Ibid.*, 5.8.1982, c. 264.
37. *Ibid.*, 27.3.1981, c. 153-54; *see also* 25.11.1981, c. 208-56.
38. *Ibid.*, 11.3.1981, c. 294-96; For instance when two or more related subjects were combined in a Calling Attention, *see* Bn. (I), 1.12.1964, 5.5.1966, 3.8.1966, 11.8.1966, 7.4.1967, 11.4.1967, 22.6.1967, 26.7.1967 and 19.8.1968.
39. *Ibid.*, 28.7.1978, c. 149-54.
40. *Ibid.*, 25.11.1981, c. 208-56.
41. *Ibid.*, 11.12.1981, c. 203-11.
42. LoB, 2.12.1983; R.S. Deb., 5.12.1983, c. 256-301.
43. *Ibid.*, 21.6.1971.
44. *Ibid.*, 20.7.1978.
45. *Ibid.*, 11.8.1978.
46. *Ibid.*, 6.3.1981.
47. *Ibid.*, 17.3.1981.

48. LoB, 20.8.1981.
49. *Ibid.*, 27.4.1984.
50. *Ibid.*, 4.8.1986.
51. *Ibid.*, 27.8.1987.
52. *Ibid.*, 13.11.1987.
53. *Ibid.*, 2.12.1988.
54. *Ibid.*, 2.1.1991.
55. *Ibid.*, 18.8.1993.
56. 2 Rpt., COR, p. 17, 22 and 26.
57. BAC mts., 13.10.1982; and Bn. (II), 14.10.1982.
58. R.S. Deb., 15.12.1981, c. 162-68.
59. *Ibid.*, 3.4.1970, c. 4-15.
60. R. 180(3).
61. R. 180(4).
62. Bn. (II), 25.9.1964, 1.12.1964, 31.3.1965, 4.5.1965, 14.5.1965, 10.12.1965, 11.12.1965, 25.2.1966, 21.3.1966, 22.3.1966, 23.3.1966, 25.3.1966, 16.5.1966, 17.5.1966, 18.5.1966, 7.9.1966, 29.11.1966, 11.4.1967, 26.7.1967, 7.8.1967, 30.11.1967 and 13.5.1968.
63. *Ibid.*, 10.3.1965, 11.11.1965, 18.11.1965, 23.3.1966 and 26.8.1966.
64. *Ibid.*, 13.5.1965, 17.8.1966, 23.8.1966, 24.8.1966, 5.4.1967, 6.4.1967, 23.11.1967, 19.3.1968, 8.5.1968, 1.9.1981, 13.8.1982, 5.11.1982 and 12.5.1989.
65. *Ibid.*, 7.8.1967.
66. *Ibid.*, 30.11.1967.
67. *Ibid.*, 2.9.1966 and 5.9.1966.
68. 1 Rpt., COR presented to the House on 10.4.1972.
69. R.S. Deb., 1.6.1972.
70. Bn. (II), 1.7.1972.
71. 1 Rpt., COR, p. 7.
72. R.S. Deb., 3.9.1991, c. 351-52.
73. *Ibid.*, 4.9.1991, c. 185-202.
74. BAC mts., 11.5.1992.
75. R.S. Deb., 27.7.1993.
76. *Ibid.*, 16.9.1991, c. 14-15.
77. R. 180(5); see also R.S. Deb., 26.11.2014, pp. 319-36; Bn. (II), 26.11.2014.
78. R.S. Deb., 22.4.1981, c. 199-201.
79. *Ibid.*, 3.12.1981, c. 192-94.
80. *Ibid.*, 15.12.1964, 23.12.1964 and 9.3.1970.
81. Bn. (I), 9.8.1971, 6.3.1973, 21.3.1973, 15.11.1974, 20.2.1975, 13.6.1977, 15.6.1977, 21.6.1977, 20.7.1977, 29.7.1977, 5.12.1977, 6.12.1977, 22.3.1978, 22.4.1978, 26.4.1978, 19.7.1978, 21.2.1979, 13.3.1979 and 2.9.1981.
82. *Ibid.*, 12.8.1966.
83. *Ibid.*, 17.8.1966, 23.8.1966, 27.4.1970, 29.7.1971, 19.11.1973, 25.4.1978 and 24.8.1978.
84. R.S. Deb., 19.11.1970, c. 131; 22.4.1981, c. 191-201; 15.3.1982, c. 189; 25.3.1982, c. 175-77; 9.7.1982, c. 186-99; and 25.2.1983, c. 161.
85. *Ibid.*, 8.11.1966, c. 315-16 and 410-34.
86. *Ibid.*, 31.8.1981, c. 185; and 1.9.1981, c. 11-12, 175.
87. *Ibid.*, 3.12.1981, c. 192.
88. *Ibid.*, 5.3.1982, c. 148-49.
89. *Ibid.*, 28.2.1983, c. 262-74.
90. *Ibid.*, 17.8.1983, c. 170.
91. *Ibid.*, 4.3.1986, c. 527.
92. *Ibid.*, 25.11.1986, c. 185.
93. *Ibid.*, 25.7.1968, c. 687-88.
94. *Ibid.*, 15.12.1980, c. 218-19.
95. *Ibid.*, 25.11.1981, c. 247.

- 
96. R.S. Deb., 19.7.1989, c. 275-90.  
 97. *Ibid.*, 24.4.1986, c. 171.  
 98. *Ibid.*, 18.5.1973, c. 13.  
 99. *Ibid.*, 8.3.1982, c. 209.  
 100. *Ibid.*, 5.12.1985, c. 176.  
 101. *Ibid.*, 21.11.1978, c. 167-73.  
 102. *Ibid.*, 7.8.1985, c. 147.  
 103. *Ibid.*, 3.12.1968, c. 2407-16; and 5.12.1968, c. 2843-59.  
 104. *Ibid.*, 28.7.1978, c. 149-54.  
 105. *Ibid.*, 25.11.1981, c. 208-56; see also R.S. Deb., 11.12.1981, c. 203-11.  
 106. *Ibid.*, 23.11.1967, c. 944; and 24.11.1967, c. 1177-86.  
 107. *Ibid.*, 7.8.1968, c. 2427-29; and 13.8.1968, c. 3060-98.  
 108. *Ibid.*, 19.11.1970, c. 131, 192 and 210.  
 109. *Ibid.*, 30.11.1970, c. 85-100.  
 110. *Ibid.*, 6.8.1993, c. 271.  
 111. *Ibid.*, 10.8.1993, c. 559-76; and 12.8.1993, c. 198 and 238.  
 112. Bn. (I), 30.8.2012.  
 113. *Ibid.*, 6.9.2012.  
 114. R.S. Deb., 18.3.1980, c. 150-60; 19.3.1980, c. 162-206; and LoB, 19.3.1980.  
 115. *Ibid.*, 23.11.1981, c. 300-08; 24.11.1981, c. 185; and LoB, 24.11.1981.  
 116. *Ibid.*, 4.11.1982, c. 413-20; 5.11.1982, c. 303-06; and LoB, 5.11.1982.  
 117. *Ibid.*, 21.2.1983, c. 291-93; 22.2.1983, c. 202; and LoB, 22.2.1983.  
 118. *Ibid.*, 13.3.1968 and 14.3.1968.  
 119. *Ibid.*, 10.5.1968 and 11.5.1968.  
 120. *Ibid.*, 6.3.1969 and 7.3.1969.  
 121. *Ibid.*, 5.3.1982, c. 172-74; and 8.3.1982, c. 202.  
 122. *Ibid.*, 25.2.1966, c. 1395-96.  
 123. *Ibid.*, 20.6.1967, c. 4889-91, 4897-4900; and 21.6.1967, c. 5127, etc.  
 124. *Ibid.*, 10.3.1981, c. 184-94.  
 125. *Ibid.*, 1.9.1981, c. 11-12, 175, 269-72; and 2.9.1981, c. 25, 248-396.  
 126. *Ibid.*, 30.11.1967, c. 1941; and Bn. (I), 3.12.1973 (f.n.).  
 127. *Ibid.*, 9.3.1978, c. 184.  
 128. *Ibid.*, 6.12.1974, c. 177-79.  
 129. *ibid.*, 14.12.1981, c. 176-81.  
 130. *Ibid.*, 19.7.1989, c. 275-90.  
 131. R. 180(2).  
 132. Bn. (II), 20.4.1979 and 6.7.1979.  
 133. R.S. Deb., 3.7.1980, c. 4-5; and Bn. (II), 3.7.1980.  
 134. Bn. (II), 3.7.1980; see also R.S. Deb., 14.8.1971, c. 10-12.  
 135. BAC mts., 13.10.1982 and Bn. (II), 14.10.1982.  
 136. R.S. Deb., 15.10.1982, c. 177-88; 16.10.1982, c. 67-69; and 20.10.1982, c. 168-70.  
 137. BAC mts., 17.7.1991; See also BAC mts., 12.8.1993.  
 138. R.S. Deb., 14.6.1967, c. 3855.  
 139. *Ibid.*, 26.7.1967, c. 587.  
 140. *Ibid.*, 17.8.1967, c. 4553.  
 141. 2 Rpt., COR, p. 17, 22 and 26.  
 142. R.S. Deb., 7.4.1967, c. 2803-10; 8.4.1967, c. 2904-24; 24.11.1967, c. 1078; 7.8.1968, c. 2427-29; 13.8.1968, c. 3060; 3.12.1968, c. 2407-16; 5.12.1968, c. 2843 etc.; 6.5.1969, c. 1184-96; Bn. (I), 1.3.1979 (f.n.) and 2.3.1979; R.S. Deb., 4.11.1982, c. 335-67; 5.11.1982, c. 430; 18.11.1983, c. 242-69, 337-38; and 21.11.1983, c. 306-66.  
 143. Bn. (II), 20.4.1979.  
 144. *Ibid.*, 3.7.1980.  
 145. R.S. Deb., 20.2.1979, c. 183-86.  
 146. *Ibid.*, 21.11.1978, c. 167-69.

147. R.S. Deb., 24.12.1980, c. 17-18.
148. *Ibid.*, 15.9.1981, c. 256-57.
149. *Ibid.*, 20.10.1982, c. 167.
150. *Ibid.*, 22.2.1983; 1.3.1983; 3.3.1983; 23.3.1983; 3.5.1983; 5.5.1983; 10.5.1983; 26.7.1983; 28.7.1983; 29.7.1983; 2.8.1983; 5.8.1983; 8.8.1983; 9.8.1983; 12.8.1983 and 7.8.1983.
151. *Ibid.*, 21.3.1983, c. 251.
152. *Ibid.*, 15.3.1983, c. 242-92; and 18.3.1983, c. 242-71.
153. *Ibid.*, 21.12.1983, c. 201-24.
154. *Ibid.*, 25.11.1986, c. 268-334; and 26.11.1986, c. 164-81.
155. *Ibid.*, 15.7.1991, c. 233.
156. *Ibid.*, 6.3.1984, c. 190-216; and 26.4.1984, c. 132-66.
157. *Ibid.*, 3.4.1967, c. 1927-29.
158. *Ibid.*, 18.8.1967, c. 4838.
159. *Ibid.*, 28.8.1970, c. 171.
160. *Ibid.*, 3.9.1970, c. 16-18.
161. *Ibid.*, 4.9.1970, c. 29-30.
162. *Ibid.*, 11.11.1970, c. 110.
163. *Ibid.*, 30.7.1971, c. 178-84 and 204-55.
164. Bn. (II), 20.4.1979.
165. Bn. (I), 1.5.1969 and 6.5.1969; 1.3.1979 and 2.3.1979; 24.4.1979 and 25.4.1979; 1.9.1981 and 2.9.1981; 4.11.1982 and 5.11.1982; 18.11.1983 and 21.11.1983; 4.11.1986 and 5.11.1986; 20.11.1987 and 24.11.1987; 27.8.1990 and 28.8.1990; 2.1.1991, 3.1.1991 and 4.1.1991; 6.8.1993, 10.8.1993 and 12.8.1993.
166. *Ibid.*, 23.3.1978.
167. *Ibid.*, 24.4.1979 and 25.4.1979.
168. *Ibid.*, 24.1.1980.
169. *Ibid.*, 6.5.1981.
170. *Ibid.*, 1.9.1981 and 2.9.1981.
171. *Ibid.*, 15.9.1981.
172. *Ibid.*, 25.11.1981.
173. *Ibid.*, 11.10.1982.
174. *Ibid.*, 12.10.1982.
175. *Ibid.*, 26.7.1984.
176. *Ibid.*, 22.7.1986.
177. *Ibid.*, 13.11.1986.
178. *Ibid.*, 15.4.1987.
179. *Ibid.*, 28.4.1987.
180. *Ibid.*, 25.8.1987.
181. *Ibid.*, 2.8.1989.
182. *Ibid.*, 2.1.1991, 3.1.1991 and 4.1.1991.
183. *Ibid.*, 4.12.1991.
184. *Ibid.*, 18.12.1991.
185. *Ibid.*, 12.5.1992.
186. *Ibid.*, 15.3.1993.
187. *Ibid.*, 12.5.1993.
188. *Ibid.*, 26.7.1993.
189. *Ibid.*, 6.8.1993, 10.8.1993 and 12.8.1993.
190. *Ibid.*, 25.8.1994.
191. *Ibid.*, 23.8.1994.
192. *Ibid.*, 18.3.1996.
193. *Ibid.*, 14.5.1997.
194. *Ibid.*, 6.8.1997.
195. *Ibid.*, 2.5.2000.
196. *Ibid.*, 10.5.2000.

197. Bn. (I), 27.2.2001.
198. *Ibid.*, 13.3.2001.
199. *Ibid.*, 24.8.2001.
200. *Ibid.*, 29.8.2001.
201. *Ibid.*, 21.11.2001.
202. *Ibid.*, 26.2.2003.
203. *Ibid.*, 30.7.2003.
204. *Ibid.*, 6.8.2003.
205. *Ibid.*, 8.12.2004.
206. *Ibid.*, 2.8.2005 and 3.8.2005.
207. *Ibid.*, 14.12.2009.
208. R.S. Deb., 22.7.1968, c. 101-04; and 23.7.1968, c. 310-412.
209. *Ibid.*, 24.7.1967, c. 119, 148; 29.2.1968, c. 2539-45, 2592, etc.; 4.8.1969, c. 2226-57; 5.8.1969, 2469-549; 1.12.1969, c. 2166-68; and 27.7.1977, c. 127-30.
210. *Ibid.*, 19.6.1967, c. 4659-63, 4740, etc.
211. *Ibid.*, 24.11.1967, c. 1078-97.
212. *Ibid.*, 12.12.1967, c. 3591-3718; and 13.12.1967, c. 3827-3909.
213. *Ibid.*, 4.8.1969, c. 2226-57; 5.8.1969, c. 2469-2549 and 2553-58.
214. *Ibid.*, 4.4.1970, c. 3-28, 202; 19.5.1970, c. 248-64; and 28.7.1970, c. 170-250.
215. *Ibid.*, 27.7.1970, c. 131-41, 152, etc.
216. *Ibid.*, 18.11.1985, c. 359-474.
217. LoB and revised LoB for 7.8.1990 and 8.8.1990.
218. R.S. Deb., 27.4.1970, c. 118-80; and 28.4.1970, c. 119-38.
219. *Ibid.*, 27.7.1983, c. 214-59; and 2.1.1991, c. 761-62.
220. *Ibid.*, 31.7.1970, c. 126.
221. *Ibid.*, 12.8.1985, c. 242-75.
222. Bn. (I), 10.3.1965.
223. *Ibid.*, 28.3.1966.
224. *Ibid.*, 20.3.1967.
225. *Ibid.*, 24.7.1967.
226. *Ibid.*, 16.2.1968.
227. *Ibid.*, 11.3.1968.
228. *Ibid.*, 7.3.1969.
229. *Ibid.*, 18.3.1969.
230. *Ibid.*, 21.3.1969.
231. *Ibid.*, 4.8.1969.
232. *Ibid.*, 5.12.1972.
233. *Ibid.*, 22.3.1975.
234. *Ibid.*, 30.3.1977.
235. *Ibid.*, 27.4.1981.
236. *Ibid.*, 22.8.1983.
237. *Ibid.*, 14.3.1984.
238. *Ibid.*, 25.11.1985.
239. *Ibid.*, 12.5.1986.
240. *Ibid.*, 22.8.1968.
241. *Ibid.*, 14.5.1965.
242. *Ibid.*, 9.5.1969.
243. *Ibid.*, 31.7.1970.
244. *Ibid.*, 31.3.1971.
245. *Ibid.*, 21.6.1977.
246. *Ibid.*, 25.11.1981.
247. *Ibid.*, 5.3.1982.
248. *Ibid.*, 25.2.1966.
249. *Ibid.*, 10.5.1968.

250. Bn. (I), 7.8.1968.
251. *Ibid.*, 14.3.1968.
252. *Ibid.*, 16.12.1970.
253. *Ibid.*, 23.11.1972.
254. *Ibid.*, 13.3.1978.
255. *Ibid.*, 13.3.1979.
256. *Ibid.*, 26.3.1980.
257. *Ibid.*, 30.7.1980.
258. *Ibid.*, 9.3.1984.
259. *Ibid.*, 28.9.1964.
260. *Ibid.*, 24.11.1964.
261. *Ibid.*, 11.3.1965.
262. *Ibid.*, 12.3.1965.
263. *Ibid.*, 19.11.1965.
264. *Ibid.*, 19.5.1966.
265. *Ibid.*, 24.8.1966.
266. *Ibid.*, 8.6.1967.
267. *Ibid.*, 19.6.1967.
268. *Ibid.*, 23.11.1967.
269. *Ibid.*, 27.2.1968.
270. *Ibid.*, 31.3.1969.
271. *Ibid.*, 1.5.1969 and 6.5.1969.
272. *Ibid.*, 7.5.1969.
273. *Ibid.*, 22.7.1969.
274. *Ibid.*, 3.12.1969.
275. *Ibid.*, 12.3.1970.
276. *Ibid.*, 25.8.1970.
277. *Ibid.*, 31.5.1971.
278. *Ibid.*, 9.3.1976.
279. *Ibid.*, 24.6.1977.
280. *Ibid.*, 19.7.1978.
281. *Ibid.*, 28.4.1975.
282. *Ibid.*, 6.4.1977.
283. *Ibid.*, 17.6.1977.
284. *Ibid.*, 20.3.1978.
285. *Ibid.*, 20.7.1978.
286. *Ibid.*, 25.8.1983.
287. *Ibid.*, 10.5.1994.
288. *Ibid.*, 17.5.1995.
289. *Ibid.*, 8.3.1996.
290. *Ibid.*, 19.12.1996.
291. *Ibid.*, 16.5.2002.
292. *Ibid.*, 1.8.2002.
293. *Ibid.*, 27.11.2002.
294. *Ibid.*, 2.12.2002.
295. *Ibid.*, 9.12.2002.
296. *Ibid.*, 12.12.2002.
297. *Ibid.*, 13.12.2002.
298. *Ibid.*, 26.2.2003.
299. *Ibid.*, 30.4.2003.
300. *Ibid.*, 9.5.2003.
301. *Ibid.*, 30.7.2003.
302. *Ibid.*, 6.8.2003.
303. *Ibid.*, 19.12.2003.

- 
- 304. Bn. (I), 9.7.2004.
  - 305. *Ibid.*, 14.7.2004.
  - 306. *Ibid.*, 18.8.2004.
  - 307. *Ibid.*, 24.11.2009.
  - 308. *Ibid.*, 14.12.2009.
  - 309. *Ibid.*, 5.3.2010.
  - 310. *Ibid.*, 4.5.2010.
  - 311. *Ibid.*, 10.8.2010.
  - 312. *Ibid.*, 15.3.2010.
  - 313. *Ibid.*, 4.8.2010.
  - 314. *Ibid.*, 4.5.2012.
  - 315. *Ibid.*, 28.8.2012.
  - 316. *Ibid.*, 15.3.2013.
  - 317. *Ibid.*, 20.2.2014.
  - 318. *Ibid.*, 8.7.2014.
  - 319. *Ibid.*, 4.8.2014.
  - 320. *Ibid.*, 27.11.2014.

## CHAPTER–19

### Zero Hour Submissions

The Rules of Procedure and Conduct of Business in the Rajya Sabha contain various procedural devices to enable members to raise matters of public importance on the floor of the House. By conventions and practices some other devices have also developed over the years without having any specific sanction of the rule book. In this category fall the Zero Hour submissions.

#### **Definition**

Dictionaries describe Zero Hour as “the hour at which a planned, especially military operation is timed to begin”; “a crucial moment”;<sup>1</sup> “a time set for the beginning of an attack”; “a decisive or critical time”<sup>2</sup> “a time when a vital decision or decisive change in the course of events is impending; the time set as a basis for reckoning the time of day”.<sup>3</sup> It is, however, used in a special sense in the parliamentary parlance in India inasmuch as ‘real action’ begins in the House at that hour. In that sense, Zero Hour may be defined as the interregnum between the end of Question Hour and the beginning of the regular listed business in the House. In other words, it is the time which begins at 12 o’clock after Question Hour which is from 11.00 a.m. to 12.00 noon. Since 233<sup>rd</sup> Session, i.e. November, 2014, the Question Hour has been shifted to 12.00 noon to 1.00 p.m. Consequently, the first item that is taken up at 11.00 a.m. is the laying of papers, etc. followed by matters of recent and urgent public importance raised with the permission of the Chair (Zero Hour Submissions), subject to a maximum of 15 such matters.<sup>4</sup> Although euphemistically called Zero Hour, it may not last for an hour; it may last for some time which may be half-an-hour or more or less. Sometimes, it may also occupy full one hour or may even extend beyond an hour, depending on the number of matters which members may like to raise and the gravity and importance of such matters. It is also not necessary that there would be Zero Hour submissions every day during the session.<sup>5</sup>

For instance, in the entire 130<sup>th</sup> Session (23 April to 10 May 1984), hardly an hour was spent on Zero Hour submissions. On 3 August 1993, Zero Hour lasted for two hours and fifty-seven minutes during which postponement of elections by the Chief Election Commissioner was the subject of submissions by fifteen members. The entire pre-lunch period

was spent on two submissions on 5 August 1993. On 18 August 1994, the Hubli incident which was raised during Zero Hour occupied nearly four hours resulting in a full-fledged debate. On the other hand, on 4 May 1994, three matters raised during Zero Hour occupied only nine minutes and the next day, one submission, took only three minutes of the time of the House.

On 15 March 1995, the constitutional crisis in Bihar was the subject of Zero Hour which lasted till the House rose for the lunch recess; on 21 March 1995, for two hours and twenty-seven minutes the subject of Zero Hour was certain statements of Maharashtra Minister regarding detection of foreigners in Bombay; the alleged bad treatment to the Minister of State for External Affairs by the Pakistan High Commissioner was the subject of Zero Hour which lasted for fifty minutes on 28 March 1995; a total of two hours and forty-three minutes was spent on 30 March 1995 during pre-lunch and post-lunch periods on the issue of reported statement of the Shiv Sena Chief, Zero Hour that day was split over upto 4.00 p.m.; Zero Hour issues which were raised on 10 May 1995, 19 May 1995, 30 May 1995, 1 June 1995 and 31 July 1995, occupied more than an hour each with the participation of more than one member.

During earlier days when the Rajya Sabha used to adjourn for the lunch recess at 1.00 p.m., Zero Hour was generally over by that time so that when the House reassembled after the lunch recess, it used to start the regular business as per the list of business. That seems to be the plausible reasoning behind the usage of the expression Zero Hour by the media. Further explanation for coinage of that expression is that Zero Hour is supposed to commence at 12 o'clock and 12 o'clock is nicknamed as Zero Hour.

### **Origin**

The emergence of Zero Hour can be traced to early sixties when many issues of great public importance and urgency began to be raised by members immediately after Question Hour, sometimes with prior permission of the Chairman or some other times without such permission. On an occasion, a member with the permission of the Chairman, raised a matter regarding policy announcements made by Ministers outside Parliament when Parliament was in session. When a point of procedure was raised by another member that important matters were sought to be raised in the House outside the provisions of the rule book, the Chairman made the following observations:

“Hon’ble Members are aware that in Parliament there are conventions besides rules. The “Zero Hour” has been a convention in this House from the days of Dr. Radhakrishnan. People have been permitted to raise questions during this Hour and it goes on in both the Houses.”<sup>6</sup>

Thus, a new technique or parliamentary device without any specific sanction in the rules was developed. A practice started developing that as soon as the Chairman declared “Question Hour is over” a member would be on his feet to raise a matter which he considered or felt to be of utmost importance to be brought to the attention of the House, and through the House, to the Government, and which could not brook any delay nor could it await to be raised by following the normally available procedures. However, according to the eminent parliamentarian late Prof. N.G. Ranga, “The most striking and exciting development is the emergence of the Zero Hour. Its growth and achievement of stability are not so much due to the inadequacy in the Rules of Procedure... as to the growing weakness of the Ministers, unmanageability of members and the rising complexity of political atmosphere. It cannot be so much due to the insufferable and irrepressible urgency of day’s happenings.”<sup>7</sup>

The interregnum between the end of Question Hour and the beginning of the regular proceedings came to be made use of by a fair number of members. Veteran parliamentarians utilised the period with consummate skill to draw the House’s attention and thereby that of the nation to some truly important issues. Generally, the practice started getting parliamentary status, “a permanent but unacknowledged feature of Indian Parliament’s agenda”.<sup>8</sup> The Zero Hour proceedings started stealing the limelight in the media thereby encouraging more and more members to take resort to this quick and handy device.

That Zero Hour had become a regular phenomenon in the House since sixties is evident from the fact that when, on an occasion, while the question of extension of the session by a week and business before the House was under discussion, the Deputy Chairman observed, “But we must not forget the Zero Hour. The Zero Hour must be of a very brief period so that we do not jump the order paper every day”.<sup>9</sup> The development of the Zero Hour practice can be summarised graphically by plagiarising a proverb about Hope: “Zero Hour is like a path in the countryside. There was never a path, but when people walk on it, it comes into existence.”

#### ***Raison d'etre of Zero Hour***

While Zero Hour was gaining popularity and acceptability amongst members, media and masses, it did not find approbation from presiding officers in view of the unexpected encroachments upon the precious time of the House, sometimes leading to acrimonious and unruly scenes and disorderly conduct on the part of some members. Its emergence and establishment started causing grave concern amongst presiding officers in legislatures in India. The subject of Zero Hour was discussed at the Presiding

Officers' Conferences held in 1967 (at New Delhi), 1969 (at Goa) and 1978 (at Jaipur). Zero Hour was described in such veritable terms as "waste of public money", "mad hour", "a great beginning of evil day" and "an unwanted thing." At the same time, it was realised that Zero Hour had become lively and important, next to Question Hour. It was a device to air individual grievances and as such it could not be eliminated or dispensed with. At one spectrum, the view was that it was the biggest hurdle for presiding officers to transact the normal business, at another, it was regarded as something original by way of contribution to parliamentary lexicon or practice.

A presiding officer, at the Conference held at Panaji (Goa), referred to a Report of a Select Committee on Procedure of the House of Commons, to analyse the reasons for Zero Hour and maintained that the picture projected in the Report was very much applicable to Indian conditions. The Select Committee had observed:

In considering opportunities for debates on important matters of current public interest, your Committee have been aware of the criticism that the House is too much involved with the arranged legislative programme of the Government to be able to address itself to the issues that are of immediate concern to people outside. It is said that Parliament is losing its position as the forum of national debate.<sup>10</sup>

The Speaker of the House of Commons, in his evidence before the Select Committee, stated as follows:

Parliament is not only Government and Opposition—it is 630 individual members, among them minorities, even minorities of one. It is quite conceivable that for various reasons, neither the Government nor the official Opposition might wish to be discussed swiftly a matter which a smaller minority considered ought to be debated at once. The eternal problem in Parliament is that of reconciling the various claims—Government, Opposition, minorities and the single back bencher.<sup>11</sup>

### **Regulating Zero Hour**

With a view to preventing dislocation of the settled business before the House arising out of acrimonious scenes and loss of invaluable time of the House, and providing sufficient opportunities to the Government to respond to the points raised, the Special Mention procedure was introduced in the Rajya Sabha in the seventies. However, over the years, Zero Hour submissions have taken the shape of an additional device rather than a substitute for the Special Mention procedure. Even with the introduction of the special mention procedure, members have been showing increasing interest to raise matters of public interest during Zero Hour.

A member wanted to mention a matter (attempt on the life of a member of the Lok Sabha) not as a Special Mention but as a mention to be made during Zero Hour only for which he had given notice. The Chairman told him that he could do it as a Special Mention. But the member insisted that he should be permitted to mention it during Zero Hour. He was permitted. The Chair observed, "I think you are making it a double Zero Hour."<sup>12</sup>

When a member wanted to make a mention of a subject which had been permitted as a Special Mention, he pleaded with the Chair, "Special Mention is different; Zero Hour is different. This is my Zero Hour point." The Chair observed, "There is no Zero Hour point."<sup>13</sup>

On another occasion, the Deputy Chairman remarked, "There is no zero on the clock; there are only numbers from 1–12".<sup>14</sup>

On an occasion, the Vice-Chairman observed, "I thank everybody for cooperating to make the Zero Hour quite dignified silent Hour".<sup>15</sup>

On an occasion, when the Deputy Chairman did not permit some members to raise matters before a calling attention, a member stated, "you cannot challenge and dispute the Zero Hour. The Zero Hour takes precedence over everything else. The Deputy Chairman observed, "There is no mention in the rules about the Zero Hour".<sup>16</sup>

However, when some members who had given notice of suspension of Question Hour to discuss the situation arising out of suspension of elections by the Chief Election Commissioner, the Chairman asked them to raise the matter after Question Hour, which was eventually done during Zero Hour.<sup>17</sup>

During the eighties, the Chairman (Shri R. Venkataraman), had introduced an informal practice to have calling attention matters and special mentions on alternate days so as to eliminate Zero Hour. When, for instance, he permitted a member to raise a matter regarding making of a policy statement by Ministers outside the House while Parliament was in session, and objection was taken to it by another member, the Chairman observed, "Thanks to the cooperation I have received from the Opposition, I have managed to dispense with the Zero Hour", but since it concerned the House, he had given permission to raise the matter.<sup>18</sup>

However, dispensing with Zero Hour was not to the liking of everybody. On 13 December 1985, a member observed, "... One by one all the weapons of the Opposition, whether a calling attention or Zero Hour, are being eroded, "The Chairman explained the position thus:

"Generally, at 10.00 o'clock I come to the Chamber. People who want to raise matters—special mention or calling attention, they come and talk to me... if four-five people ask for four-five different things, then I judge, I decide, which is important and on that basis, I give them permission."<sup>19</sup>

Again after a few months the same member raised the matter saying that the Zero Hour privilege was being taken away and only in the Rajya Sabha it was not allowed. The Chairman also reiterated his position and wished that the time could have been saved if members had gone to his Chamber and mentioned those things.<sup>20</sup>

The media also did not react favourably to this. A newspaper reviewing the proceedings of the Rajya Sabha for the week commencing 19 March 1985, bemoaned that Zero Hour had virtually been sacrificed in the Rajya Sabha. It concluded by observing, “The Chairman too has to be a little indulgent like his predecessors to see that Zero Hour does not die”.<sup>21</sup>

However, during the tenure of the then Chairman, Shri Krishan Kant, the practice of allowing members to make submissions during the Zero Hour was almost stopped. Very rarely, a few members were permitted by the then Chairman to make submissions during Zero Hour. The matters permitted by the then Chairman to make submissions during Zero Hour were reflected in Bulletin Part-I as “Matters raised with permission”, which was not a practice earlier. For example during 190<sup>th</sup> Session, two matters were raised with permission on 31 July and 8 August 2000. This was more so as the procedure relating to special mention was formalised and rules relating to special mention were incorporated in the Rules of Procedure and Conduct of Business in the Rajya Sabha in May 2000. The new Rule (180A to 180E) relating to special mention came into force with effect from 1 July 2000. Moreover during the tenure of Shri Krishan Kant, the practice of publishing a para in Bulletin Part-II regarding the procedure relating to matters raised with permission, at the time of issue of summons to members was discontinued. However, during the 211<sup>th</sup> Session on 20 August 2007 the paragraph on Zero Hour mentioning the procedure relating to “Matters raised with permission” was again restored and found mention in the bulletin Part-II and since then the para is continuously being included in bulletin Part-II at the time of issue of summons to members, of course, with modifications in the procedure brought from time to time.

### **Views of the Business Advisory Committee**

The Business Advisory Committee was of the views that Zero Hour submissions might be permitted only sparingly and a member should not take more than two minutes to make such a submission, when permitted.<sup>22</sup> The Committee, at its meeting held on 5 May 1993, discussed at length the procedure concerning calling attention and special mention and was of the view that Zero Hour submission might be permitted only sparingly.<sup>23</sup> At the meeting held on 5 August 1993, the Committee discussed at length the ways to regulate the Zero Hour proceedings in the House and suggested

that the Zero Hour submission might be permitted sparingly. It held that only 3-4 submissions per sitting may be made and in case of sudden urgent matters only. On days when a calling attention item was admitted, the Zero Hour submission might not be permitted.<sup>24</sup> These recommendations were reiterated by the Committee at its meeting held on 19 August 1993.<sup>25</sup>

### **Recommendations of the Rules Committee**

The Rules Committee considered on 14 February 1995, *inter alia*, the practice of making Zero Hour submissions and was of the opinion that:

- (i) Zero Hour submissions may not extend beyond half-an-hour;
- (ii) the total number of submissions during Zero Hour may not normally exceed seven per day and in no case more than ten and a member should not take more than three minutes in making the submission;
- (iii) a member may make only one special mention or Zero Hour submission during a week; and
- (iv) Zero Hour submissions and special mentions should be completed before the House adjourns for lunch at 1.00 p.m.<sup>26</sup>

The House by a motion agreed with the recommendations of the Committee on 30 May 1995. Following the adoption of the recommendation of the Rules Committee regarding Zero Hour submissions contained in its Seventh Report on 30 May 1995, a practice was more or less developed till the early part of 1999 that members used to approach the Chairman in his Chamber and give him in writing the subjects they wish to raise. Only those members to whom permission was granted, were ordinarily permitted to mention the matter in the House. Due to formalisation of the procedure relating to special mentions in the year 2000, the instances of giving permission to members to raise matters of urgent public importance by way of Zero Hour submissions became very rare. The trend, in fact, started since May, 1999 and continued for about 5-6 years when only occasionally a few matters were permitted to be raised as “Matters raised with permission” in Zero Hour. These matters were also mentioned in the Parliamentary Bulletin Part-I as such.

There is a ruling from the Chair that the Zero Hour ends with the adjournment of the House. On 24 November 2006, a discussion on remarks on Arunachal Pradesh by the representatives of People’s Republic of China took place with the permission of the Chair. Due to interruptions the speech of a member was abruptly ended and the Chairman called the concerned Minister to reply. After the Minister replied the Chairman adjourned the House at 12.33 p.m. When the

House reassembled after lunch at 2 p.m. the Deputy Chairman announced that special mention would be taken up. The concerned member whose speech came to an abrupt end due to interruptions demanded that he be allowed to complete his speech. The Deputy Chairman objected to the demand of the member and ruled "As far as the discussion on the subject raised in the Zero Hour is concerned, the convention is that once the House adjourns, the Zero Hour ends".<sup>27</sup>

### **Current Practice**

The popularity of Zero Hour and strong desire of members to raise matters of urgent public importance immediately after the Question Hour could not be overlooked and soon it was realised that the informal practice of allowing submissions during Zero Hour cannot be discontinued despite the fact that it is not obligatory on the part of the Government to respond, formally or informally, to those matters. The matter of regulating the Zero Hour and allowing members to raise issues of urgent public importance immediately after the Question Hour had been discussed several times in meetings of the Business Advisory Committee<sup>28</sup> and leaders of parties in the Rajya Sabha<sup>29</sup>. Based on consensus arrived at these meetings, a set of guidelines were evolved to regulate the Zero Hour and there had been a practice to regularly allow members to raise matters after the Question Hour and laying of papers, if any, on the Table and before any other item in the list of business was taken up. These guidelines, *inter alia*, provide that only those matters which have arisen very recently, particularly after 10.00 a.m. of the previous day's sitting, might be permitted to be raised. A member who wishes to raise a matter of urgent public importance on a particular day, should give notice of his or her intention to the Chairman latest by 10.00 a.m. on that day and should indicate in the notice a synopsis of the matter that he or she wishes to raise justifying its urgency and importance. The Chairman on examination and consideration of all such notices, may admit them to be raised as 'matters raised with permission'. Not more than one submission shall be permitted on one subject. No member shall be allowed to make more than one submission as 'matter raised with permission' in a week. Previously not more than ten matters were allowed to be raised on a day. Now a maximum of fifteen such matters are allowed to be raised per day.<sup>30</sup> A member may take not more than three minutes to make his submission. A reverse clock is operational in the House in this regard and after three minutes, the mike of the member raising the matter goes off automatically. These guidelines are published in the Parliamentary Bulletin, Part-II before the commencement of every session<sup>31</sup>. The matters raised in the Zero Hour are mentioned in the Parliamentary Bulletin Part-I under the caption 'Matters Raised with Permission'.

## Recent Developments

The Rules Committee in its 13<sup>th</sup> Report presented to the Rajya Sabha on 25 November 2014 and adopted by the House on 26 November 2014 *inter alia* recommended amendments in the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) regarding change in the timings of the Question Hour from 11.00 a.m. - 12.00 noon to 12.00 noon-1.00 p.m. as the Question Hour, in the past few years, was frequently disrupted for various reasons. The Committee observed that the Question Hour suffered the most casualty due to eagerness of the members to raise matters of urgent public importance as soon as the Question Hour commenced. It, therefore, proposed to schedule the Question Hour from 12.00 noon to 1.00 p.m. for maintaining the inviolability of the Question Hour as an effective instrument of ensuring accountability of the Executive to the Parliament while at the same time giving adequate opportunities to members to raise matters of urgent public importance. Consequently, the first item of business to be taken up at 11.00 a.m. is the laying of papers and other business of formal nature, followed by matters of recent and urgent public importance to be raised with the permission of the Chair (Zero Hour submissions) subject to a maximum of 15 such matters, and if time permits, the special mentions (for raising matters of public importance) are taken up to 12.00 noon.<sup>32</sup>

### Government not bound to reply during the Zero Hour

The Chair has ruled on many occasions that the Government is not bound to reply during the Zero Hour. On 14 May 2007 after the Maternity Benefit (Amendment) Bill, 2007 was introduced by the Minister of State in the Ministry of Labour and Employment, there were some interruptions in the House. A member demanded to resolve the issue of Babli project and sought reply from the Government. The Deputy Chairman clarified that the member should give proper notice under the rules and observed:

“This is Zero Hour. The Government is not bound to reply... How can I ask the Government to reply during Zero Hour?... I cannot tell the Government during Zero Hour to reply...”<sup>33</sup>

On 16 December 2008 during a discussion on the matters raised with the permission of Chair on the allotment of spectrum, a member said that as per newspaper reports the Union Minister of Telecommunications had been charged with having allotted 2G spectrum for mobile services on a first-cum-first served basis rather than going for a global auction. He sought the dismissal of the Minister as well as examination of the matter by a Joint Parliamentary Committee. The Deputy Chairman observed:

“All of us have agreed for a Zero Hour and this House is following certain norms. Now, in Zero Hour, you know that the Minister cannot

reply. You insist that the Zero Hour should be taken up and when we take up the Zero Hour, you demand this and that. You have a right to say this but how can the Government respond? You have to use the other forum which is available to you under the rules. If you do not make use of the other forum and you say that Zero Hour is used for all purposes, I think this is not correct. In all party meeting, we have taken a decision. Let us respect that decision. Let us follow that.”<sup>34</sup>

### Follow-up action

Unlike special mentions, there is no follow-up action on matters raised as the Zero Hour submissions. In 1992, the Ministry of Parliamentary Affairs had decided, on the suggestion of some Members of Parliament, to make mandatory for Ministries of the Government of India to send replies to members on their Zero Hour submissions, as in the case of special mention.<sup>35</sup> It appears that the Ministry has yet to issue procedural guidelines to Ministries in respect of the Zero Hour submissions. However, sometimes, copy of reply/response of the Minister concerned to the member in respect of a ‘matter raised by him with permission’, is endorsed to the Secretariat. This indicates that the Ministry of Parliamentary Affairs probably keeps a note of these matters and corresponds with the concerned Ministry for furnishing a reply/response to the concerned member in this regard.

#### NOTES AND REFERENCES

1. *The Concise Oxford Dictionary*.
2. *The Rendum House Dictionary*.
3. *Webster's Third New International Dictionary*.
4. 13th Report of the Committee on Rules, Rajya Sabha Secretariat, New Delhi, November, 2014.
5. For instances, see R.S. Deb., 3.5.1994, 10.5.1994, 28.8.1994 and 26.8.1994.
6. R.S. Deb., 12.8.1985, c. 239.
7. *Journal of Parliamentary Information*, March 1992.
8. Prof. Ranga quoted in People, Parliament and Administration by Dr. Bal Ram Jakhar.
9. R.S. Deb., 2.6.1967, c. 1962; see also R.S. Deb., 7.8.1968; c. 2433.
10. Second Report of the Select Committee on Procedure (H.C., 1966-67, 282) on Urgent and Topical Debates, para. 12.
11. Memorandum from the Speakers to the Committee, *Ibid*.
12. R.S. Deb., 14.12.1981, c. 173-74.
13. *Ibid.*, 29.8.1991, c. 120.
14. *Ibid.*, 19.7.1991, c. 129.
15. *Ibid.*, 17.9.1991, c. 28.
16. *Ibid.*, 27.7.1993, c. 283.
17. *Ibid.*, 3.8.1993, c. 2.
18. *Ibid.*, 12.8.1985, c. 239.
19. *Ibid.*, 13.12.1985, c. 200-02.
20. *Ibid.*, 6.5.1986, c. 183-86.
21. *Statesman*, 25.3.1985.
22. BAC mts., 1.8.1991.
23. *Ibid.*, 5.5.1993.

24. BAC mts., 5.8.1993.
25. *Ibid.*, 19.8.1993.
26. 7 Rpt., COR; *see also* R.S. Deb., 14.2.1995. However, *see* R.S. Deb., 21.3.1995, 23.3.1995, 28.3.1995, 30.3.1995; *and* 31.7.1995 when Zero Hour occupied considerable time of the House.
27. *Rulings and Observations from the Chair* (1952-2008), Rajya Sabha Secretariat, p. 440.
28. BAC mts., 30.11.2006, 16.7.2009.
29. Leaders of Parties meeting held on 9.5.2007, 20.8.2007 *and* 11.3.2008.
30. 13th Report of the Committee on Rules, Rajya Sabha Secretariat, New Delhi, November, 2014.
31. Bn. (II), 6.2.2013.
32. 13th Report of the Committee on Rules, Rajya Sabha Secretariat, New Delhi, November, 2014.
33. *Rulings and Observations from the Chair* (1952-2008), Rajya Sabha Secretariat, p. 441.
34. *Ibid.*
35. F. No. 51/3/92-L.

## CHAPTER–20

### Special Mention

#### **Genesis of the procedure**

There was no specific provision in the Rules of Procedure and Conduct of Business in the Rajya Sabha in regard to the mentioning of matters of urgent public importance in the House by members till 1 July 2000. During the first two decades of the Rajya Sabha, it was the practice that ordinarily a member wishing to bring to the notice of the House and the Government a matter of urgent public importance, could approach the Chairman in his Chamber before the sitting of the House commenced and seek his prior permission to mention that matter. The member concerned would then be called to refer to that matter after Question Hour. Sometimes, however, members used to raise matters abruptly even without such permission which could eventually lead to avoidable or unpleasant scenes. For instance, on 16 August 1963, when a member wanted to make a submission without seeking Chairman's prior permission, the Chairman observed, "I am afraid, things which are not on the Order Paper should not be brought in this way unless they are brought to my notice before hand." When the member persisted, the Chairman observed:

"I think the House would understand and appreciate my difficulty. If submissions are to be made without my knowledge as to what they refer to, I probably will have to disallow... I should be told in advance what matter is sought to be brought before the House. Otherwise, this agenda paper becomes meaningless. Though he permitted the member to mention the matter but remarked, "I hope you will not make me do it a second time."<sup>1</sup>

Again, on another occasion, when after members who had sought prior permission raised their points, one member got up to refer to another point. The Chairman told him, "You never informed me that you wanted to raise a question." When the member clarified that he wanted to raise a different point on the same matter mentioned earlier, he was allowed.<sup>2</sup>

Even then the practice of mentioning matters was informal. This practice was considered at the meetings of the leaders of parties and

groups in the Rajya Sabha held on 3 August 1970 and 21 August 1970. They arrived at the following decision:

Only the members to whom the Chairman has given permission can mention the matter in the House. No other member can speak on it or refer to it unless permitted by the Chairman. A member to whom permission has been refused by the Chairman should not be allowed to raise the matter in the House.<sup>3</sup>

It was, however, observed that in the absence of a set procedure, on occasions, the practice caused inconvenience to the Chairman or members especially when the Chairman was busy in his Chamber with urgent matters connected with the sitting of the House. The following procedure was, therefore, introduced under the direction of the Chairman from the 90<sup>th</sup> Session of the Rajya Sabha which commenced on 11 November 1974:

A member who desires to seek permission of the Chairman for mentioning a matter of urgent public importance in the House shall give notice thereof in writing in the form available for the purpose in the Notice Office not later than 10.15 a.m. of the day on which he proposes to mention the matter in the House. A member shall not, however, give more than two such notices for one sitting. It will not be necessary for the members to meet the Chairman personally for the purpose. Notices received upto 10.15 a.m. will be placed before the Chairman for his consideration. A member to whom permission is given by the Chairman for mentioning a particular matter in the House on that day will be informed of it in the House during Question Hour. The member so permitted may mention that matter after the disposal of "Questions" and "Calling Attention", if any. Only the member to whom permission has been given may mention the matter in the House. No other member shall speak on it unless specially permitted by the Chairman.

Members to whom permission has not been granted to mention matters given notices of by them will not be allowed to mention the matters in the House. It will, however, be open to them to give fresh notices of the subjects for any subsequent day for the consideration of the Chairman.<sup>4</sup>

The procedure detailed above was brought to the notice of members before the commencement of each session through a Bulletin. It was also included in the Rajya Sabha *Hand Book for Members*.

Thus, by convention and consensus a regular practice of permitting members to make Special Mentions on matters of public importance was evolved and had been firmly established without any specific rule

incorporated in the Rules of Procedure and Conduct of Business in the Rajya Sabha in that behalf.

The Committee on Rules in 1978 considered a suggestion that a specific rule for Special Mention should be incorporated in the Rules of Procedure and Conduct of Business in the Rajya Sabha but did not agree to the suggestion as the Committee was of the opinion that it was not necessary to accord a formal recognition to the “Special Mention” by incorporating it in the Rules of Procedure.<sup>5</sup>

The Committee after nearly a decade (1989) reconsidered the suggestion and agreed to recommend a provision about Special Mention in the Rajya Sabha rules. It also tentatively approved a draft rule for the purpose. The Committee, however, did not take a final decision in the matter but left it for discussion amongst leaders of various parties/groups in the House.<sup>6</sup>

Subsequently, the Committee did not agree to the suggestion for framing a specific rule for Special Mention as the Committee felt that the existing procedure was satisfactory. The Committee was of the opinion that the admission/non-admission, listing of and giving priority to Special Mention matters should be left to the discretion of the Chairman.<sup>7</sup>

The absence of rules governing admissibility of and the procedure for making Special Mentions was perceived as hampering the smooth conduct of the business of the House. Therefore, the matter was placed before the General Purposes Committee, which in its meeting held on 28 July 1999, endorsed the need for framing rules in this regard and referred the matter to the Committee on Rules. The Committee on Rules in its eighth report agreeing with the views of the General Purposes Committee, proposed new rule 180A to 180E for regulating the procedure for raising special mentions in the House. The Report of the Committee was adopted by the House on 15 May 2000, and the new rule came into force with effect from 1 July 2000. Accordingly, from the 190<sup>th</sup> Session, the matters of urgent public importance are also being raised as Special Mentions under rule 180A to 180E.

## **Procedure**

### *Notices*

At the commencement of each session, members are informed about the procedure to be followed in regard to Special Mentions. A member who desires to make a Special Mention has to give notice in writing in the prescribed form by 5.00 p.m. on the day preceding the day on which he desires to mention the matter. Notices on subjects that have not been

selected for a particular day are carried forward for consideration of the Chairman for the next day. Notices which are not selected during the week for which they have been given, lapse at the end of the week and no intimation thereof is given to the member who had given the notice. Those members who are desirous to revive their notice(s) for the following week also may do so by giving a fresh notice.<sup>8</sup>

In order that a notice may be admissible, it should be accompanied by a text of the Special Mention not exceeding 250 words; should not refer to a matter which is not primarily the concern of the Government of India; should not refer to a matter which has been discussed in the same session or which is substantially identical to the matter already raised by a member during the session under the rules governing Special Mentions; should not raise more than one issue and the issue should not pertain to trivial matters; should not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements; should not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India; should be restricted to a matter of recent occurrence; should not refer to proceedings of a parliamentary/consultative committee; should not refer to the conduct or character of persons except in their public capacity; and should not refer discourteously to a friendly foreign country.<sup>9</sup>

A member should not give more than two notices for one sitting.<sup>10</sup> All the notices received upto the time mentioned above are arranged according to date and point of time<sup>11</sup> and placed before the Chairman for his consideration from day to day. The Chairman's decision regarding granting the permission is communicated to the member concerned in the House during Question Hour by returning the notice and the approved text with the remarks, "HC has permitted". A list of members together with the subjects on which they have been permitted to make Special Mentions is prepared every day and kept for the use of the Chair. The list is supplied to the Leader of the House, Leader of the Opposition, Minister of Parliamentary Affairs and the Press.

The Rules Committee considered but did not agree to a suggestion that the list of Special Mentions permitted by the Chairman should be displayed on the Notice Board in the Outer Lobby of the Rajya Sabha.<sup>12</sup>

#### *Chairman's discretion*

The selection of a Special Mention to be made by a member in the House is entirely the prerogative of the Chairman. Under normal circumstances, only one Special Mention is allowed to be made by a member during a week unless the Chairman directs otherwise.<sup>13</sup> The question of

giving of permission for a Special Mention or its admissibility should not be raised in the House but may be taken up with the Chairman in his Chamber.<sup>14</sup>

A member was permitted to make a Special Mention regarding the alleged suicide by an ICAR employee. When another member who had given a Calling Attention notice on a similar subject wanted to make a submission, the Deputy Chairman intervened and observed, “How can you get up in the House and question the Chairman’s discretion?... If every member wants to get up in the House and make a submission on all the notices that he has given then it will become impossible to run the House.”<sup>15</sup>

Ordinarily, not more than one Special Mention may be permitted on one subject by one member. In case notices are received from more than one member on the same subject at the same time and for the same day, the Chairman in his discretion decides which member may be permitted to make the Special Mention irrespective of the order in which the notice is submitted.<sup>16</sup>

At a meeting of the leaders of various parties/groups in Rajya Sabha with the Chairman on 19 June 1980, it was felt that in respect of notices received from more than one member on the same subject, at the same time and for the same day, a ballot be held to decide which member should be permitted to make a Special Mention on that subject.<sup>17</sup> The suggestion, however, was not pursued.

In 1981, a suggestion that if a Special Mention on a subject was granted, all those who had given notices should be allowed to speak was considered by the Rules Committee but was not agreed to.<sup>18</sup>

However, there had been cases where in view of the importance or sensitiveness of the subject, a number of members were permitted to speak on a Special Mention. Some of the important subjects and the number of members who spoke on those subjects (given in brackets) are mentioned below:

Justice Vaidilingam Commission Report (8);<sup>19</sup> lathi charge by police on blind processionists in Delhi (12);<sup>20</sup> Presidential reference to the Supreme Court on the issue of payment of bonus to LIC employees (10);<sup>21</sup> plot to assassinate Prime Minister (Shri Rajiv Gandhi) during his USA visit (11);<sup>22</sup> discontentment amongst journalists regarding Wage Boards’s recommendations (11);<sup>23</sup> threat to freedom of Press (10);<sup>24</sup> cancellation of the lease of the Indian Express Building; Kothari Panel report on bank privatisation (3+4);<sup>25</sup> police action in preventing the workers of the Indian Express (6); Sri Lankan Minister’s statement on retaining Israeli personnel (4);<sup>26</sup> election in Tripura (4);<sup>27</sup> Third Anniversary of Bhopal Gas Tragedy (6);<sup>28</sup> developments in Sri Lanka (9);<sup>29</sup> declaration of State of Tripura as a disturbed area (5);<sup>30</sup> Kuo Oil deal (5);<sup>31</sup>

DTC strike (8);<sup>32</sup> HDW sub-marine deal (4);<sup>33</sup> police raid on the Gwalior office of *Dainik Bhaskar* (4);<sup>34</sup> discovery of weapons from certain cargo (4);<sup>35</sup> tax reductions and concessions by the Governor of Tamil Nadu (7);<sup>36</sup> protest against the Trade Unions and Industrial Disputes (Amendment) Bill (8);<sup>37</sup> plot to kill the Prime Minister and the Home Minister (13);<sup>38</sup> tapping of telephones of certain politicians and others (9);<sup>39</sup> killing of *Harijans* in Jehanabad district of Bihar (3);<sup>40</sup> dharna by Ministers and MLAs of Andhra Pradesh at the Boat Club (4);<sup>41</sup> strike of journalists against the Defamation Bill, 1988 (8);<sup>42</sup> manhandling of a Rajya Sabha member by Tihar Jail officials (8);<sup>43</sup> ratification of the Constitution (Sixty-second Amendment) Bill, 1988 regarding lowering of voting age by States (3);<sup>44</sup> raids on offices of Indian Express in Bombay (5);<sup>45</sup> nexus between smugglers and politicians (3);<sup>46</sup> attacks on Government officials in Tripura (13);<sup>47</sup> hoisting of Pakistani flags in Kashmir on the Independence Day (11);<sup>48</sup> Supreme Court decision on Cauveri water dispute (3);<sup>49</sup> pledging of gold in the Bank of England (3);<sup>50</sup> killing of a scheduled caste police officer in a village in Maharashtra (4);<sup>51</sup> denigrating Maulana Abul Kalam Azad in a programme in Doordarshan (1+others);<sup>52</sup> violence in Karnataka against Tamilians there (1+others);<sup>53</sup> demolition of temples in Ayodhya (17);<sup>54</sup> atrocities on Dalits at Kumher (3);<sup>55</sup> blacklisting of ISRO by USA (11);<sup>56</sup> and sale of rocket technology by Russia (2).<sup>57</sup>

This practice of more than one member speaking on a Special Mention has been put to an end since 1 July 2000 with the framing of rules governing Special Mentions. Only one member is permitted to speak and the others, if they so desire, can only associate themselves with the Special Mention made by another member.

#### *Number of Special Mention matters per sitting*

As regards the number of Special Mentions per sitting, it has been provided in rule 180D(2) that it is not to exceed seven. But the Chairman considering the state of business, importance of the subject and other relevant matters while permitting Special Mentions at a sitting of the House may permit more than the prescribed number. Even prior to the framing of rules, attempts were made to regulate the number of Special Mentions to be made in the House in a day. The Chairman had informed the House on 23 April 1981, that at the meeting of the Business Advisory Committee held on 22 April 1981, it had unanimously been suggested that ordinarily not more than four Special Mentions might be permitted on a day, and in case notices were received from more than one member, on the same subject, at the same time and for the same day, the Chairman, should in his discretion decide which member should be permitted to make the Special Mention irrespective of the order in which the notice was submitted.

The Chairman said that he had accepted the suggestion and proposed to follow this procedure.<sup>58</sup> However, a member expressed his disagreement with the suggestion and wanted that each member should be permitted to speak for a minute or two and a ballot be held if there were more than one member wanting to raise a matter.<sup>59</sup> The Business Advisory Committee at its meeting held on 10 July 1992, *inter alia*, recommended that not more than ten Special Mentions be admitted for a day when there was no calling attention or short duration discussion. At its meeting held on 5 August 1993, the Committee expressed the view that in order to devote more time to Government business, the number of Special Mentions be restricted to ten per sitting.<sup>60</sup> However, since 174<sup>th</sup> Session this number has been restricted to seven.<sup>61</sup> Over the years, however, more than ten Special Mentions have been permitted during a sitting. For instance, on 10 September 1991, twenty-three Special Mentions were permitted, while they were thirty on 13 May 1992. On 20 August 1992, twenty-three Special Mentions were made and on 31 March 1993 and 12 May 1994, they were twenty and twenty-five, respectively. On 21 March 2007, 7 May 2010, 27 August 2010 and 11 December 2012, thirty, thirty-six, thirty-four and thirty-two Special Mentions were laid on the Table respectively.

#### *Time for making Special Mention*

The selection of a Special Mention to be made by a member at a particular sitting of the House is entirely at the discretion of the Chairman and cannot be questioned.<sup>62</sup> It is also not necessary that Special Mention may be allowed daily. At times, considering the business of the House, Special Mention matters may not be allowed on a particular day.

For instance, at a meeting of the Business Advisory Committee on 25 July 1991, members suggested that the Chairman might not admit Special Mention matters till the completion of the essential business of the House.<sup>63</sup>

In view of these considerations the item “Special Mention” is not included in the list of business.

Generally the Special Mention matters were taken up after the disposal of questions and laying of papers. Sometimes, Special Mention matters have been taken up after the lunch-recess<sup>64</sup> or immediately after Question Hour if they were not taken up the previous day, or before Calling Attention if there is consensus in the House.<sup>65</sup>

The Rules Committee considered but did not agree to a suggestion, that a Special Mention should be given precedence over a Calling Attention.<sup>66</sup> At a meeting of the Business Advisory Committee some members had suggested

that a Special Mention should precede a Calling Attention. The Committee opined that since the matter pertained to rules, it might be referred to the Rules Committee for its consideration.<sup>67</sup>

Due to the desire or consensus in the House or need to dispose other urgent business, many times Special Mention matters have not been taken up after Question Hour but have been taken up after the lunch-recess or at some other time or towards the end of the sitting of the House.<sup>68</sup>

For instance, due to the Budget discussion, the Business Advisory Committee suggested that the Special Mention matters admitted for a day may be taken up at 6.00 p.m. from Tuesday, 24 March 1992 till Friday, 27 March 1992.<sup>69</sup> However, none was admitted during those days.

During 228<sup>th</sup> Session, on 11 March 2013, the Chairman gave direction to the effect that the Special Mentions admitted for a sitting of the Council should be taken up at 5.00 p.m. or before the House rises for day whichever is later. It was further stipulated in the direction that members would have the option either to read the approved text of Special Mentions or to lay the same on the Table of the House<sup>70</sup>.

### **Recent Developments**

The Rules Committee in its 13<sup>th</sup> Report presented to the Rajya Sabha on 25 November 2014 and adopted by the House on 26 November 2014 *inter alia* recommended amendments in the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) regarding change in the timings of the Question Hour from 11.00 a.m.-12.00 noon to 12.00 noon-1.00 p.m. as the Question Hour, in the past few years, was frequently disrupted for various reasons. Consequently, the first item of business to be taken up at 11.00 a.m. is the laying of papers and other business of formal nature, followed by matters of recent and urgent public importance to be raised with the permission of the Chair (Zero Hour Submissions) subject to a maximum of 15 such matters, and if time permits, the Special Mentions (for raising matters of public importance) are taken up to 12.00 noon.<sup>71</sup>

#### *Mode of making Special Mention*

The member to whom permission has been given, rises in his seat when called and reads the text of the matter for which permission is given. He is not permitted to mention the subject other than the one for which he has been given the permission.

#### **Member to confine himself to the admitted text**

On 10 December 2004, Shri V. Hanumantha Rao while making a Special Mention regarding the critical condition of children with heart problem

needing operation in Andhra Pradesh deviated from the written admitted text.

The Deputy Chairman then observed:

“Mr. Hanumantha Rao, what you are reading is not in the text here... You have to read only the text that you have given to the hon’ble Chairman.”<sup>72</sup>

A member may with the prior permission of the Chair but not otherwise associate himself with a Special Mention made by another member.<sup>73</sup> In such a case he should confine himself merely to associating and should not make long speech. A member to whom permission has been refused should not mention the matter in the House.<sup>74</sup> A member should not ordinarily take more than three minutes to mention the matter.<sup>75</sup>

### No discussion on a Special Mention

On 16 May 1985, when there were interruptions during a Special Mention on reference to consequences of ban on recruitment in the Central Government and the Public Undertakings, the Chairman said:

“No discussion is allowed on a special mention.”<sup>76</sup>

In recent years, in order to save time, the Chair, has more often after taking sense of the House, allowed the members to lay the approved text of Special Mentions on the Table, instead of reading it<sup>77</sup>.

It is at the discretion of the member to whom permission to make a Special Mention has been granted to withdraw it or not to make it.

A Special Mention regarding reported violation of prescribed ceiling on expenditure by the Governor of Andhra Pradesh was, due to controversy on the subject, withdrawn by the member.<sup>78</sup>

### *Time limit for conclusion of Special Mentions*

In July 1980, the Chairman announced, *inter alia*, that Special Mentions should, as far as possible, be completed within fifteen minutes.<sup>79</sup> The Committee on Rules recommended that Special Mentions should not take more than half-an-hour and be completed by 1.00 p.m.<sup>80</sup> However, over the years, in view of the number of Special Mentions per sitting, it has not been possible to conclude Special Mentions within this time limit. In fact, there have been a number of occasions when one Special Mention had taken considerable time. Some of the instances when one Special Mention had lasted for more than one hour in a sitting are mentioned below:

Bomb explosions and hoisting of Pakistani flag in Kashmir,<sup>81</sup> communal incidents in Varanasi;<sup>82</sup> demolition of temples in Ayodhya;<sup>83</sup> and black-listing of ISRO by USA.<sup>84</sup>

However, with the incorporation of rule governing the procedure of Special Mentions, the time taken for this purpose has been considerably brought down. Since only one member is allowed to speak on a subject, there is no question of a Special Mention taking more than three minutes. All the Special Mentions permitted for a day are generally over before the House adjourns for lunch and sometimes even before that.

### No Supplementaries on Special Mention

On 31 August 1978, Shri Nageshwar Prasad Shahi spoke on the Karakoram Highway under the Special Mention procedure. When Shri Rameshwar Singh wanted that some time should be allowed to put questions on the subject, the Chairman ruled:

“Supplementaries are not allowed on special mentions.”<sup>85</sup>

### Special Mentions on alternate days

During the 140<sup>th</sup> Session (November-December 1986), the Chairman had devised an informal arrangement whereby he fixed alternate days for Calling Attention and Special Mentions in a week. The Business Advisory Committee, at its meetings held on 10 July 1992 and 19 August 1993, recommended, *inter alia*, that Special Mentions might not be admitted on those days when a Calling Attention or Short Duration Discussion was listed on the agenda.<sup>86</sup> However, on a number of occasions there have been Special Mentions on a day when there was a Calling Attention or a Short Duration Discussion.<sup>87</sup>

### Entry in Bulletin Part-I

The names of members who are permitted to make Special Mention together with the subjects raised by them are shown in Bulletin Part-I under the heading “Special Mentions”. Earlier, Bulletin Part-I contained only an entry “Mentioning Matters of Urgent Public Importance” indicating the names of members but without indicating the subjects.<sup>88</sup> The practice of mentioning names of members and subjects in Bulletin Part-I started from the 104<sup>th</sup> Session.<sup>89</sup> The practice of showing these matters under the heading “Special Mentions” started from 1985.<sup>90</sup>

### Cabinet Minister to be present in the House during Special Mention

On 15 December 2004, Shrimati Sushma Swaraj made a Special Mention demanding the presence of a Minister in the House during Special Mention and in the absence of a Cabinet Minister she requested the Deputy Chairman and thereafter the Chairman to adjourn the House. Intervening in the debate Shri Suresh Pachouri, Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Ministry of

Parliamentary Affairs said that nowhere it is mentioned in the Rule Book that in the absence of a Cabinet Minister the House has to be adjourned. There is a mention about a Minister to be present in the House and no specific mention about State or Cabinet Minister.

Responding to it, the Chairman said:

“... It would be appropriate to have the proper representation of Government in the House and in order to have proper representation of the Government there should be at least one-two Cabinet Ministers, if some more other Ministers are there, it is better. However, if no Cabinet Minister is present in the House then the demand of the members is genuine.”<sup>91</sup>

#### *Follow-up action on Special Mention raised*

When Special Mentions are made, as a general practice, Ministers, though present in the House, do not react immediately to the matters so mentioned. If the concerned Minister is present and wants to reply, he is permitted to do so but it is not obligatory on him to reply.<sup>92</sup> However, on important issues and sensing the desire of members, Ministers sometimes do react.<sup>93</sup>

Since August 1981, as informally suggested in the meeting of the Business Advisory Committee held on 19 August 1981,<sup>94</sup> after a Special Mention is made, relevant extracts from the proceedings of the House are forwarded to the concerned Ministry/Department of the Government of India the following day with a request that the same may be placed before the concerned Minister for a reply thereon direct to the member who has made the Special Mention under intimation to the Rajya Sabha Secretariat. A copy of the communication is also forwarded to the Ministry of Parliamentary Affairs which is the nodal Ministry for ensuring follow-up action by the Ministries on the matters raised by way of Special Mention.<sup>95</sup> That Ministry has issued various instructions and guidelines to the Ministries/ Departments for the follow-up action to be taken by them with regard to Special Mention matters including the time-limit for sending replies thereto. The guidelines, *inter alia*, stipulate:

- (1) On receipt of extracts of proceedings from the Secretariat, the Ministries should submit the same to their Ministers for information.
- (2) Ministries should examine the Special Mention matters and send replies to members who raised them in the House, within a period of one month from the date the matters have been raised.

- (3) In case it is found not possible to stick to this time-limit in respect of any matter for reasons like having to collect information from several sources, etc. an interim reply should be sent from the Minister to the member concerned stating the reasons for the likely delay and the approximate time that may be taken for the final disposal of the matter.
- (4) All communications should be sent to members at their Delhi addresses when Parliament is in session. During the inter-session period such communications should be sent to both local as well as permanent addresses of the members.
- (5) Communications to members should normally issue under the signature of the Minister. However, in exceptional cases, like when the Minister is on tour or indisposed, communications may be sent to members over the signature of an officer not below the rank of a Joint Secretary.<sup>96</sup>

Notwithstanding the above, the matter of non-receipt of replies to the Special Mentions within the stipulated time has been raised in the House from time to time.

On 7 May 1985, immediately after Question Hour, the Chairman made the following observations:

It has been represented to me that the Ministers are not sending replies to the various Special Mentions which the members made in this House. I would like the Leader of the House to take note of it and see that replies are sent and sent expeditiously.<sup>97</sup>

The Leader of the House (Shri V. P. Singh) responded saying that he would extend maximum cooperation. Thereafter, a member referred to three Special Mentions made by him in the last session. Another member referred to para 7.15 at p. 46 of the Annual Report of the Ministry of Parliamentary Affairs for 1984-85 and quoted two instances of the Special Mentions made by him to which replies were received after more than a month and said that whatever was mentioned in the Annual Report was not being implemented. The Leader of the House again assured his maximum cooperation “to get answers as early as possible.” [The Annual Report referred to above stipulated a week’s time for Ministries to send replies to members.]

Again on 5 September 1991, a member complained that no replies to Special Mentions were coming to members for years together.<sup>98</sup> On 9 December 1991, the Deputy Chairman made the following observations:

Members make Special Mentions. They refer to some issues. We have no procedure of letting the Minister react immediately, but

at least in one week or two weeks the answers should come to them. Members raise certain issues which are very serious. I would request the Minister for Parliamentary Affairs to make it a point to tell the concerned Ministers and write to the concerned Ministers about it.<sup>99</sup>

On 18 March 1993, a member raised, as question of privilege, a matter that he received a reply on 10 March 1993, to a Special Mention made by him in the House on 15 May 1990, i.e., after three years.<sup>100</sup>

In this context, the Committee on Rules considered in 1984 a suggestion of some members for constituting a Committee of the House to monitor replies to the Special Mentions made by members in the House. Although the Committee did not agree to the suggestion, it proposed that as in the case of Government Assurances, the Minister of Parliamentary Affairs should lay, during each session, a statement on the Table of the House, indicating the action taken by the Government on the Special Mentions made by members in the House. The proposal, however, did not find favour with the Government.<sup>101</sup> In 1992, again the Committee considered the suggestion. The Committee felt that an informal Committee of members might be set up for the purpose. However, the matter still rests there.<sup>102</sup>

In 2009, due to the concerns expressed by the Chairman, Rajya Sabha, the Secretariat itself took up the issue of long pendency of replies to Special Mentions made/laid in the Rajya Sabha. A statement of pendency of replies was obtained from the Ministry of Parliamentary Affairs and the Secretaries of the concerned Ministries were called and persuaded to expedite replies to Special Mentions pending against them. Owing to these efforts, the pendency of replies could be brought down appreciably. However, issues of non-receipt of replies and delay in sending replies to Special Mentions by the Ministries are still under active consideration of the Presiding Officers, Ministry of Parliamentary Affairs and the Government. The Ministry of Parliamentary Affairs, which is responsible for monitoring the follow up action on replies to Special Mentions, holds periodic meetings with the Ministries during inter-session in this regard.<sup>103</sup>

#### NOTES AND REFERENCES

1. R.S. Deb., 16.8.1963, c. 425-26.
2. *Ibid.*, 26.11.1963, c. 1028-29.
3. F. No. 7/4/70-L.
4. Bn. (II), 30.10.1974 and 8.11.1974.
5. 2 Rpt., COR mts., 19.6.1978, pp. 17-18.
6. COR mts., 23.8.1989.
7. *Ibid.*, 18.8.1992.
8. R. 180C.

9. R. 180B.
10. Bn. (II) issued from time to time; *See* for instance, Bn. (II), 14.11.1995.
11. BAC mts., 1.8.1986.
12. 2 Rpt., COR mts., 24.1.1979, p. 25.
13. R. 180D(1).
14. R.S. Deb., 18.7.1978, c. 217; 25.7.1978, c. 174.
15. *Ibid.*, 18.3.1975, c. 156.
16. BAC mts., 22.4.1981; R.S. Deb., 23.4.1981, c. 171; Bn. (II), 23.4.1981.
17. R.S. Deb., 3.7.1980, c. 5; *and* Bn. (II), 3.7.1980.
18. 3 Rpt., COR mts., 5.8.1981, p. 37.
19. Bn. (I), 4.2.1980.
20. *Ibid.*, 17.3.1980.
21. *Ibid.*, 22.4.1981.
22. *Ibid.*, 14.5.1985.
23. *Ibid.*, 21.4.1986.
24. *Ibid.*, 17.3.1987.
25. *Ibid.*, 16.11.1987.
26. *Ibid.*, 19.11.1987.
27. *Ibid.*, 30.11.1987.
28. *Ibid.*, 3.12.1987.
29. *Ibid.*, 8.12.1987.
30. *Ibid.*, 23.2.1988.
31. *Ibid.*, 14.3.1988.
32. *Ibid.*, 22.3.1988.
33. *Ibid.*, 30.3.1988.
34. *Ibid.*, 26.4.1988.
35. *Ibid.*, 29.4.1988.
36. *Ibid.*, 9.5.1988.
37. *Ibid.*, 27.7.1988.
38. *Ibid.*, 2.8.1988.
39. *Ibid.*, 9.8.1988.
40. *Ibid.*, 16.8.1988.
41. *Ibid.*, 31.8.1988.
42. *Ibid.*, 6.9.1988.
43. *Ibid.*, 24.11.1988.
44. *Ibid.*, 19.12.1988.
45. *Ibid.*, 8.3.1989.
46. *Ibid.*, 2.5.1989.
47. *Ibid.*, 9.5.1989.
48. *Ibid.*, 16.8.1989.
49. *Ibid.*, 23.5.1990.
50. *Ibid.*, 18.7.1991.
51. *Ibid.*, 29.8.1991.
52. *Ibid.*, 6.9.1991.
53. *Ibid.*, 16.12.1991.
54. *Ibid.*, 23.3.1992.
55. *Ibid.*, 8.7.1992.
56. *Ibid.*, 12.5.1992.
57. *Ibid.*, 5.5.1992.
58. BAC mts., 22.4.1981; R.S. Deb., 23.4.1981, c. 171; *and* Bn. (II), 23.4.1981.
59. R.S. Deb., 23.4.1981, c. 192-95.
60. BAC mts., 10.7.1992 *and* 5.8.1993.
61. Bn. (II), 13.7.1995.
62. R.S. Deb., 18.3.1975, c. 156.
63. BAC mts., 25.7.1991.
64. R.S. Deb., 15.3.1982, c. 190; 26.3.1982, c. 3; 31.3.1982, c. 91; *and* 27.4.1984, c. 185.

65. R.S. Deb., 26.7.1985, c. 166; 16.9.1991, c. 15, etc.
66. 3 Rpt., COR mts., 5.8.1981, p. 37.
67. BAC mts., 1.8.1986.
68. R.S. Deb., 9.1.1991, 10.1.1991, 11.1.1991, 26.2.1991, 5.3.1991, 15.7.1991, 25.7.1991, 13.9.1991, 29.11.1991, 2.12.1991, 5.12.1991, 6.12.1991, 11.12.1991, 13.12.1991, 10.3.1992, 16.3.1992, 18.3.1992, 31.3.1992, 29.4.1992, 8.5.1992, 13.5.1992, 14.5.1992, 10.8.1992, 18.8.1992, 19.8.1992, 20.8.1992, 19.3.1993, 31.3.1993, 10.5.1993, 26.7.1993, 29.7.1993, 27.8.1993, 22.12.1993, 16.3.1994, 26.4.1994, 12.5.1994, 15.6.1994, 26.7.1994, 22.8.1994 and 25.8.1994.
69. BAC mts., 23.3.1992.
70. Bn. (II), 11.3.2013
71. 13th Report of the Committee on Rules presented on 25.11.2014 and adopted by the House on 26.11.2014.
72. *Rulings and Observations from the Chair* (1952 to 2008); Rajya Sabha Secretariat, New Delhi, p. 418
73. R.S. Deb., 20.3.1986, c. 35.
74. *Ibid.*, 25.3.1980, c. 257; and 24.11.1986, c. 238.
75. *Ibid.*, 3.7.1980, c. 5; Bn. (II), 3.7.1980; R.S. Deb., 20.3.1985, c. 141.
76. *Rulings and Observations from the Chair* (1952 to 2008); Rajya Sabha Secretariat, New Delhi, p. 421
77. R.S. Deb., 30.8.2005, 7.9.2012, 29.4.2013, etc.
78. *Ibid.*, 23.2.1988, c. 207-08.
79. Bn. (II), 3.7.1980.
80. 7 Rpt., COR mts., 21.12.1994 and 14.2.1995.
81. Bn. (I), 16.8.1989.
82. *Ibid.*, 20.11.1991.
83. *Ibid.*, 23.3.1992.
84. *Ibid.*, 12.5.1992.
85. *Rulings and Observations from the Chair* (1952 to 2008); Rajya Sabha Secretariat, New Delhi, p. 491.
86. BAC mts., 10.7.1992 and 19.8.1993.
87. Bn. (I), 25.11.1986, 8.5.1987, 16.3.1988, 28.4.1988, 7.12.1988, 26.4.1989, 10.5.1990, 10.1.1991, 15.7.1992, 23.2.1993, 29.7.1993, 15.3.1994, 14.6.1994, 23.8.1994 and 26.8.1994.
88. *Ibid.*, 18.7.1977.
89. *Ibid.*, 21.2.1978.
90. *Ibid.*, 21.11.1985.
91. *Rulings and Observations from the Chair* (1952 to 2008); Rajya Sabha Secretariat, New Delhi, p. 416.
92. R.S. Deb., 13.8.1985, c. 145 and 20.12.1985, c. 198.
93. Bn.(I), 22.4.1981, 12.3.1987, 24.11.1988, 19.12.1988, 3.4.1989, 2.5.1989, 20.8.1990, 12.7.1991, 16.7.1991, 18.7.1991, 10.9.1991, 2.12.1991, 6.12.1991, 16.12.1991, 27.2.1992, 4.3.1992, 9.3.1992, 23.3.1992, 13.5.1992, 26.11.1992, 2.3.1993, 11.3.1993, 17.8.1993, 23.8.1993 and 24.8.1993.
94. F. No. 7/5/80-L.
95. Ministry of Parliamentary Affairs Office Memorandum No. F. 14(3)/89-Leg.II, dated 15.7.1993.
96. *Ibid.*
97. R.S. Deb., 7.5.1985, c. 171-73.
98. *Ibid.*, 5.9.1991, c. 284.
99. *Ibid.*, 9.12.1991, c. 201.
100. *Ibid.*, 18.3.1993 and F. No. 35/12/93-L.
101. 4 Rpt., COR mts., 29.5.1984, p. 21.
102. RC mts., 18.8.1992.
103. F. No. RS 4/3/2009-L.

## CHAPTER–21

### **Legislation**

**P**arliament is a multi-functional institution. One of its important functions is to make laws. All legislative proposals are brought before Parliament in the form of Bills. A Bill is a draft statute and no Bill can become a law until it has been passed by both Houses of Parliament and assented to by the President.

#### **Format of a Bill**

A Bill has more or less the following salient features or format:

LONG TITLE, which describes the nature of the proposed measure and is prefixed to a Bill—'A Bill to.....etc.'

PREAMBLE, which follows the Long Title and precedes the enacting formula, explains certain facts necessitating the enactment—'WHEREAS.....etc.'<sup>1</sup> However, of late most of the Bills do not contain any preamble.

ENACTING FORMULA, is a short paragraph preceding the clauses of a Bill. The form of the enacting formula is—'Be it enacted by Parliament in the—year of the Republic of India as follows:—'<sup>2</sup>

SHORT TITLE, which is a label or an index-heading to an enactment and is cited in the first clause of the Bill—'This Act may be called the...Act, 20...'. Where two or more Bills seek to amend the same principal Act and are introduced in the same year, they are numbered consecutively.<sup>3</sup>

EXTENT CLAUSE, which explicitly specifies whether the proposed law is applicable to the whole of India or to the whole of India excepting the State of Jammu and Kashmir or only to Union territories or to those States the legislatures of which have passed resolutions under article 252 of the Constitution<sup>4</sup> or to the whole of India as also to citizens of India and some other categories of persons.<sup>5</sup>

COMMENCEMENT CLAUSE, which specifies when the Act shall come into force. The general practice is to place the short title, the extent clause and commencement clauses in a single clause divided into three sub-clauses. The general rule regarding the commencement of an Act is that in the absence of an express contrary provision, the Act comes into force

on the date on which it receives the assent of the President.<sup>6</sup> In view of this, an Act which is intended to take effect at once does not usually have a commencement clause. If the Act has to give a retrospective effect, the commencement clause is in the form: ‘This Act shall be deemed to have come into force on the...’<sup>7</sup> In many cases power is conferred on the Central Government to bring the Act into force ‘on such date as the Central Government may, by notification in the Official Gazette, appoint’ and additionally, some Acts may provide that different provisions thereof may be brought into force on different dates.<sup>8</sup>

**DURATION CLAUSE**, in a temporary Bill, which is embodied as one of the sub-clauses in the first clause of a Bill stipulates the period till the time the Act will be in operation; after the expiry of the stipulated period, such enactment ceases to be effective.<sup>9</sup>

**DECLARATORY CLAUSE**, in certain Bills, which comes after clause one (citation clause) of a Bill, declares or states the need or requirement which the statute is framed to fulfil. Generally, a legislation contemplated under article 31C or entry 7, 23, 27, 52, 53, 54, 56, 62, 63, 64 or 67 in the Union List of the Seventh Schedule to the Constitution contains a declaratory clause.<sup>10</sup>

**DEFINITION CLAUSE**, which usually comes immediately after the short title, defines various expressions which occur in a Bill to avoid ambiguities of the words or phrases used in that Act, or a particular part or chapter of that Bill.<sup>11</sup> The definitions are arranged in alphabetical order.

**RULE-MAKING CLAUSE**, which delegates rule-making power to the Executive under the proposed law, is in a set form and inserted in all Bills involving power to make rules, regulations, etc. It is based on three general principles, namely, the rules, etc. should be laid on the Table before each House of Parliament, they should be laid for a specified period, before or as soon as may be after they are made and they should be subject to modification by Parliament within a prescribed period.

**REPEAL AND SAVINGS CLAUSE**, which is placed at the end of a Bill, repeals some enactment or ordinance and reserves something which would be otherwise included in the words of the enacting part or protects rights which may have accrued under the then existing law. The provisions regarding both repeal and savings are embodied in the same clause. The General Clauses Act provides for the various effects of the repeal of an enactment.<sup>12</sup>

**SCHEDULES**, which are appended to some Bills, contain matters of detail e.g., forms, lists, tables, etc. The expression used is ‘First Schedule’, ‘Second Schedule’, etc. which is spelt with capital letter ‘S’, and refers at its head the clause of the Bill to which it relates.

Apart from the above clauses, a Bill may also contain provisions in the nature of exceptions and exemptions, procedural matters, overriding effect of the proposed Act, penalty, removal of doubts and power to issue directions. Each clause is a self-contained paragraph embodying a proposal. A clause may be divided into sub-clauses and a sub-clause may be divided into items. The clauses are numbered serially 1, 2, 3 etc., the sub-clauses (1), (2), (3) etc., and the items (i), (ii), (iii) etc. or (a), (b), (c) etc. If a Bill is a long one, it is divided into chapters. Each chapter, clause and schedule is given a brief heading. A Bill having more than twenty-five clauses also carries a list of contents called "Arrangement of Clauses". In some cases like Bills having more than twenty-five clauses or Bills of technical nature which cannot be understood easily, are accompanied by "Notes on Clauses" which explain the various provisions contained therein. They are elucidatory in nature and facilitate consideration of the clauses in their right perspective.<sup>13</sup> Amending Bills also contain extracts of relevant provisions of the principal Acts proposed to be amended by the Bills, in the form of Annexures.<sup>14</sup>

### **Types of Bills**

Bills may be classified into Government Bills and Private Members' Bills accordingly as they are sponsored by a Minister or a Private Member. Depending upon their contents, Bills may further be classified broadly into (a) Original Bills which embody new proposals, ideas or policies, (b) Amending Bills which seek to modify, amend or revise existing Acts, (c) Consolidating Bills which seek to consolidate existing laws/enactments on a particular subject, (d) Expiring Laws (Continuance) Bills which seek to continue Acts which, otherwise, would expire on a specified date, (e) Repealing and amending Bills to cleanse the Statute Book, (f) Validating Bills to give validity to certain actions, (g) Bills to replace Ordinances, (h) Money and Financial Bills, and (i) Constitution Amendment Bills.

### **Requirements of a Bill**

Under the rules, along with its text, a Bill is required to be accompanied by a Statement of Objects and Reasons, a Memorandum Regarding Delegated Legislation and a Financial Memorandum, wherever necessary.

The Statement of Objects and Reasons briefly explains the purpose of the proposed legislation. The Statement is explanatory of the contents and objectives of a Bill and helps in understanding the necessity and scope of the Bill. It is, therefore, required to be framed in a non-technical language;

it should not contain arguments.<sup>15</sup> It can be revised by the Chairman, if he thinks fit.<sup>16</sup>

On an occasion, the Statement of Objects and Reasons appended to a Private Member's Bill was found to be very lengthy and also contained arguments and matters which were not germane to the Bill. The Statement was, therefore, revised. When the member concerned was called to introduce the Bill, he complained that the Statement had been 'mutilated' by some alterations, additions and deletions. He, therefore, wanted that his original version should be restored and circulated to members. The introduction of the Bill was, therefore, at the request of the member, postponed. The Statement was later further revised in consultation with the concerned member and circulated to members on the date on which the Bill was introduced.<sup>17</sup>

A Bill involving proposals for the delegation of legislative power is required to be accompanied by a memorandum explaining such proposals and also drawing attention to their scope and stating whether they are of normal or exceptional character.<sup>18</sup> In the normal type of delegated legislation the limits of the delegated powers are clearly defined in the enabling Act itself and do not contain such powers as the power to legislate on matters of principle or to impose taxation or to amend any Act of Parliament, including that under which the power exists or any other. The exceptional type embraces powers just mentioned or where the powers given are very wide and their limits are impossible of definition or while limits are imposed the control of courts is ousted.<sup>19</sup>

A Bill involving expenditure is required to be accompanied by a Financial Memorandum which has to invite particular attention to the clauses involving expenditure and also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law. These clauses are shown in thick type or in italics in the printed copy of the Bill.<sup>20</sup>

As per the established practice, whenever a Bill seeking to replace an Ordinance with modifications of the provisions of that Ordinance is introduced in the House, the modifications contained in the Bill are explained in a memorandum appended to the Bill.<sup>21</sup>

### **Legislative competence of the House**

The Constitution provides for distribution of legislative power between the Union and the States and concurrent power for both, in the three Lists contained in the Seventh Schedule to the Constitution. The Lists enumerate subjects in respect to which Parliament, State Legislatures and both, Parliament and State Legislatures, as the case may be, have power to make laws. Arising from the classification of matters into three Lists, points have been raised in the House, time and again, regarding the competence of Parliament to legislate on particular matters before the House. It is now a

settled practice that the Chair does not give any ruling regarding the legislative competence of the House.

The House also does not take a decision on the specific question of *vires* of a Bill. It is open to members to express their views in the matter and take into account the aspect of *vires* while voting on the various motions on the Bill. The Chairman, though he may express his own views thereon, generally leaves the ultimate decision to the House.

When the Women's and Children's Institutions (Licensing) Bill, 1953, introduced by a member, was taken up, it was pointed out by the concerned Minister that the Bill was being made applicable to the whole of India whereas Parliament could legislate only so far as the then Part C States were concerned. Some members suggested that it was a technical mistake and could be condoned. The Deputy Chairman did not agree and refused to allow the Bill to proceed.<sup>22</sup>

When another Bill was introduced on the same subject by the same member in 1956, a point of order was raised that the Bill did not come within the legislative competence of Parliament as the subject-matter of the Bill was entirely within the purview of the State Governments under entry 32 of the State List. The Deputy Chairman expressed the view that the Bill might come under entry 28 of the Concurrent List. However, he observed:

Now, I do not want to take the responsibility of giving a ruling, because there is a ruling already. On 9 December 1947, during the discussion over a particular Bill in the Central Legislative Assembly a point was raised whether the Bill was *ultra vires*. Mr. Speaker observed that the usual practice of the Chair was not to take upon itself the responsibility of deciding whether any particular Bill was *ultra vires* or not to kill any Bill on that account.<sup>23</sup> So, I leave it to the House to decide whether it is *ultra vires* or not.<sup>24</sup>

On another occasion, when the Representation of the People (Amendment) Bill, 1959, providing for recall of the elected members of the House of the People and of the State Assemblies, introduced by a member, was taken up, the Minister of Law, rising on a point of order, submitted that Parliament was not competent to entertain the Bill because under the Constitution, the composition of Parliament and State Assemblies was fixed and that to provide for recall, there must be an amendment to the Constitution. The Deputy Chairman, after hearing the views of members, observed:

... this objection was not taken at the introduction stage. But I still feel that there is a strong force in the objection raised by the Law Minister and it may amount to an amendment to the Constitution. But the Chair has never taken the responsibility of deciding the *ultra vires* or otherwise of a Bill. There have been several decisions of the Chair in this connection. In fact on 23 April 1951, when an objection was taken in the Provisional

Parliament to the Forward Contracts (Regulation Bill), that it was *ultra vires* the Constitution, the Speaker observed:

The position which I had made clear was that the question of *ultra vires* will not be decided by the Chair, but that it may be left to the House. If it comes to the conclusion that it is *ultra vires* the House may reject the Bill. If the House accepts the Bill for consideration, then the party aggrieved has his remedy in the Supreme Court or other courts. Therefore, I said it was of no use going in detail into questions of constitutional niceties, because after all these are things which can best be argued by lawyers, and it is not proper to take the time of the House over these long discussions of niceties.

Again in 1953, when the constitutionality of the Legislative Assembly (Prevention of Disqualification) Bill, was raised, it was observed:

In all these matters, the Speaker has never taken upon himself the responsibility of deciding the point of order whether it is constitutional or otherwise. It is for the House to take this also into consideration in voting down the Bill or accepting it.

Under the circumstances, I leave it to the House to accept or not to accept the Bill. The discussion will proceed.<sup>25</sup>

Again, on a later occasion, when the Deputy Minister in the Ministry of Finance moved the Compulsory Deposit Scheme Bill, 1963, for consideration, a member contended that the Bill contravened certain provisions of the Constitution as it infringed a citizen's right to dispose of his property as he liked. After hearing the views of members, the Chairman observed:

I thank the hon'ble members for the assistance they have given me in coming to a conclusion. *Prima facie* I think we can go on with the discussion, but I do not wish to give any ruling, because in the Central Legislature it has been the accepted practice for the Chair not to take upon itself the responsibility of deciding whether the House has the legislative competence to entertain a Bill or whether a Bill is *ultra vires*. When any such question is raised, the usual practice had been to leave the matter for the decision of the House. The main reason for the adoption of this course is that a question relating to the legislative competence of the House or the constitutionality of the proposed legislation often involves much difficulty and complexity and it is the function of the court and ultimately of the Supreme Court to decide such a question. The Presiding Officer should not arrogate to himself the functions of the court, specially as he has not the facilities or the material on which to come to a satisfactory decision. It is the sole privilege and duty of the House to decide every question that arises on a motion moved by a member. So, if the matter is left to the House to decide, the House may reject the Bill, if it is of the view that the Bill is *ultra vires*. If, however, the House accepts the Bill, the party aggrieved will still have the remedy in the courts and ultimately

in the Supreme Court. This question came before the Central Legislature on various occasions and the accepted practice has been as stated by me.<sup>26</sup>

When the Muslim Women (Protection of Rights on Divorce) Bill, 1986 as passed by the Lok Sabha was about to be taken up for consideration, members raised various points regarding the constitutionality of the Bill. The Chairman permitted full discussion thereon and thereafter ruled:

...it is a well-established precedent in both Houses of Parliament that the Chair does not give a ruling on the *vires* of a legislation. It does not go into the question whether the legislation is *ultra vires* or *intra vires*. It is for the court to decide. This is borne by all the decisions given after the Constitution has been introduced. In accordance with the same principle, I am not deciding whether the Bill is *intra vires* or *ultra vires*. The House has heard the objections and it is open to the members to come to the conclusions on the basis of the arguments advanced on both sides. So far as the Chair is concerned, the Chair rules that it is not for the Chair to give a decision on this, that the Bill is within the competence of the Legislature to consider.<sup>27</sup>

On 23 January 1985, during the discussion on the General Insurance Business (Nationalisation) Amendment Bill, 1985, a member raised a point of order. He said that the trade unions, the labour had the fundamental right of bargaining which was being denied by the Bill and that the Bill was in contravention of that fundamental right. Another member sought a ruling on this point from the Chair. The Vice-Chairman observed:

It is an accepted practice that the Chair does not give any ruling on a point of order raised whether a Bill is constitutionally within the legislative competence of the House or not...It is open to members to express their views in the matter and to press arguments for and against for the consideration of the House. The members may take this aspect into account in voting on the motion for consideration of the Bill. In view of this long standing practice, I do not want to propose to give any ruling on the points raised.<sup>28</sup>

### Three Readings of a Bill

Subject to the provisions of articles 109 and 117 of the Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.<sup>29</sup> Again subject to the provisions of articles 108 and 109 with respect to joint sittings of both the Houses in certain cases and Money Bills, a Bill is not deemed to have been passed by both Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.<sup>30</sup>

A Bill undergoes three readings in each House of Parliament. The First Reading refers to the Introduction of a Bill. The Bill is introduced after adoption of a motion for leave to introduce a Bill or the introduction of a Bill already published in the Gazette or laying on the Table of a Bill as passed by the other House where it originated. The Second Reading consists of two stages: the ‘first stage’ consists of discussion on the principles of the Bill and its provisions generally on any of the following motions: that it be taken into consideration; that it be referred to a Select Committee of the Rajya Sabha; that it be referred to a Joint Committee of the Houses with the concurrence of the Lok Sabha; that it be circulated for the purpose of eliciting opinion thereon; and the ‘second stage’ signifies the clause-by-clause consideration of the Bill as introduced or as reported by the Select/Joint Committee. The Third Reading refers to the discussion on the motion that the Bill (or the Bill as amended) be passed or returned (to the Lok Sabha, in the case of a Money Bill).

While each Bill has to undergo the three readings or stages mentioned above, some categories of Bills such as Government Bills, Constitution Amendment Bills, Money and financial Bills, Bills to replace Ordinances and Private Members’ Bills, have special procedural aspects and are, therefore, treated separately.

### **Government Bills—originating in Rajya Sabha**

#### *Formulation of legislative policy*

The first stage in the preparation of a Bill is the formulation of legislative policy. A statute is the formal and legal expression of a legislative policy and, therefore, before the Bill can be drafted the policy sought to be implemented by it must be determined and settled from the administrative, financial and political points of view in the administrative Ministries concerned.<sup>31</sup> Long before the Bill comes to be drafted, considerable mental activity would have gone into its making. Usually, there is formulation of a grievance or a realisation that some new need is to be met and that this can be done only by adding to or altering the law. An attempt is then made at devising the appropriate solution or remedy which may often involve reconciliation of conflicting interests. The legislative idea may take place in the mind of an aggrieved citizen or it may be the result of a concerted effort undertaken by a society or group of people seeking advancement of the public interest or ‘pressure groups’ having an object to achieve in proposing the legislation, or an idea may have its genesis in the executive confronted with an acute problem and seeking a legislative solution thereof or the legislative idea may have been a part of the announced policy of the party in power.<sup>32</sup>

After a legislative idea is born, formulation of a legislative proposal takes place in the Government. The important steps in this formulation are: the administrative Ministry prepares the main outline of the proposal in the form of a note setting out the salient features, the Ministry of Law examines its constitutional validity, and the need for amendment of the existing law or for framing new law by legislation and gives it a legal shape or puts it in the form of a draft legislation.<sup>33</sup> Thereafter a self-contained summary setting out the facts of the case and the legislative measure proposed is prepared and submitted to the Cabinet for consideration and approval.<sup>34</sup>

#### *Preparation of a Bill*

If approval of the Cabinet for any legislative proposal has been obtained, the Ministry initiating action in this behalf prepares a memorandum indicating with sufficient precision the lines on which it has been decided to legislate and requesting the Ministry of Law to draft a Bill for its introduction in Parliament.<sup>35</sup> The drafting of a Bill cannot always start even when the memorandum containing instructions about the draft legislation have been received. The substance, policy and form of law and such like matters are inextricably mixed up and it is essential that conferences are held at various stages between the draftsman and department officials before the Bill can be finalised. In the case of a short Bill, one or two drafts may suffice, but in the case of a longer Bill several drafts may have to be made and subjected to comments and criticisms both on files and in conferences. The process of drafting may be a very long one in the case of an important and complex Bill and may continue until the sponsoring Ministry and the draftsman are both satisfied in respect of form and contents of the Bill. However, often the entire process goes in reverse gear also. When a Bill is finalised and approved by the sponsoring Ministry, necessary formalities like preparation of a Statement of Objects and Reasons, Memorandum on Delegated Legislation, Financial Memorandum, etc. as already mentioned, are undertaken. When all the formalities are completed, the Bill, together with its memoranda and annexures, is sent by the Ministry of Law to the Government Press for printing and the proofs are scrutinised and authenticated by the draftsman. The Bill is then sent to the Secretariat of the House of Parliament in which the Bill is proposed to be introduced.<sup>36</sup>

#### *Choice of the House*

Articles 109 and 117(1) of the Constitution prohibit the introduction of Money and certain financial Bills in the Rajya Sabha. Subject to these restrictions, Bills may originate in either House of Parliament. The choice of the House for introduction of a Bill (other than a Bill coming within these articles) is often a matter of convenience depending upon the state of

parliamentary business. Under the Government of India allocation of Business Rules, planning and coordination of legislative and other official business in both Houses is one of the functions assigned to the Ministry of Parliamentary Affairs<sup>37</sup> and that Ministry settles the House in which a non-Money Bill is to be introduced. But more often than not, the Minister's preference of the House for introduction of his Bill plays a decisive role in this regard. In this connection the Committee appointed to recommend Draft Rules of Procedure for the Rajya Sabha had in its report of 1963 expressed the view that Government should so arrange its business in the two Houses, particularly in the matter of introduction of Bills, that there would be an even flow of work between the two Houses. The Committee had felt that the then existing position in regard to arrangement of Government Business in the Rajya Sabha was not satisfactory.<sup>38</sup> However, the position has since improved considerably.

#### *Scrutiny of a Bill before introduction*

Once the question as to the House in which a Bill is to be introduced is settled, the Ministry of Law sends the proof copy of the Bill to the Secretariat under an Office Memorandum signed by the Legislative Counsel (formerly known as Chief Draftsman). Two proof copies of English and Hindi version of the Bill (one original and another duplicate) authenticated by the Legislative Counsel are received from the Ministry of Law in the Secretariat. The Bill from that moment passes to the control of the House and it is then the responsibility of the Secretariat to get fair copies of the Bill printed and circulated to the members and to take all further steps in connection therewith.

Before sending the proof copy of the Bill to the Press for final printing, it is scrutinised with a view to ensuring that various provisions of the Constitution and the Rules of Procedure are complied with, and more particularly with respect to the following points, viz., whether—

the subject-matter of the Bill is within the legislative competence of Parliament; the Bill has been published before introduction; the Bill contains more than twenty-five clauses, and if so, it is accompanied by "Arrangement of Clauses"; in the case of an amending Bill, the sections of the parent Act sought to be amended have been reproduced as an annexure to the Bill; the Bill is accompanied by a Statement of Objects and Reasons; the Bill requires President's recommendation for introduction under the proviso to article 3 or article 274(1), and if so, it has been received; the Bill, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India, and if so, the recommendation of the President under article 117(3) of the Constitution has been received; the Bill requires a Financial Memorandum, and if so, it has been appended to the Bill and

relevant clauses have been shown in thick type or in italics; the Bill involves delegation of legislative power, and if so, the Memorandum regarding Delegated Legislation has been appended to the Bill; the Bill seeks to replace an Ordinance with modifications, and if so, it is accompanied by a memorandum explaining the changes made in the Bill; the Bill requires a prior resolution to be passed by the Rajya Sabha under article 249 or article 312, and if so, it has been done; the Bill requires prior resolutions to be passed by State Legislatures under article 169 or 252, and if so, these have been passed and an indication to that effect has been given in the Statement of Objects and Reasons; the Bill relates to a subject under any of the entries no. 7, 23, 24, 27, 52, 53, 54, 56, 62, 63, 64 or 67 in the Union List, and if so, it contains a declaratory clause; and in case of a Constitution Amendment Bill, ratification by State Legislatures is required, and if so, it has been referred to the Ministry of Law for opinion.

A notice was received from the Minister of Home Affairs during the second part of the 230<sup>th</sup> Session (30.1.14) for introduction of the Andhra Pradesh Reorganisation Bill, 2014 in the Rajya Sabha. On examination of the proof copy of the Bill received from the Legislative Department, it appeared that some of the clauses of the Bill attracted provisions of article 110(1) (a) and (e) and as such the Bill was put in Category-1 of Financial Bill. Accordingly, advice of the Ministry of Law and Justice was sought on 10 February 2014 as to the admissibility of the notice of the Bill for introduction in the Rajya Sabha. However, in the meantime, the Government preferred to introduce the Bill in the Lok Sabha and the Bill was introduced in that House on 13 February 2014.

The Secretary, Legislative Department in the Ministry of Law and Justice *vide* his letter dated the 5 May 2014 informed the Secretary-General that the Department was also of the view that the recommendation of the President for introduction of the Andhra Pradesh Reorganisation Bill, 2014 was required under article 3 and clauses (1) and (3) of article 117 of the Constitution and, accordingly, the administrative Ministry was advised to give notice for introduction of the Bill in the Lok Sabha.<sup>39</sup>

The Bill is then entered in the Register of Bills maintained for the purpose and a ‘Bill Number’ is indicated at the top of the Bill as “Bill No. (in Roman numerals)... of 20...” A docket page which contains the words “Rajya Sabha” at the top, the long title of the Bill and recommendation of the President, if any,<sup>40</sup> in the middle and name and designation of the Minister in-charge of the Bill at the bottom, is prepared and attached to the Bill. The original proof copy is then sent to the Press with instructions to print copies with line-numbers. On receipt of printed copies, a copy is

minutely checked with the original proof copy. A corrected copy is then sent to the Legislative Counsel, Ministry of Law, for scrutiny. If necessary, a corrigendum (including the corrections pointed out by the Legislative Counsel) is circulated to members, either with the Bill or separately thereafter. Copies of the Bill with superscriptions “To be introduced in the Rajya Sabha” and “As introduced in the Rajya Sabha” are got printed; in the latter case, the date of introduction is stamped on the copies after the Bill is introduced.

Two copies of proof of the Hindi version of a Bill, authenticated by the Legislative Counsel, are also received from the Ministry of Law and copies of the Hindi version of the Bill are printed and circulated to those members who get their parliamentary papers in Hindi.

On an occasion, several members raised an objection to the introduction of a Bill on the ground that the Hindi version of the Bill had not been made available to them alongwith its English version. A member raised a point of order that since there was a convention to that effect, a resolution had to be brought forward, if a departure from that convention had to be made. The Deputy Chairman ruled, “I do not think we had such a convention laid down in this House ... we want to lay it down from now on...” (that the Hindi version of each Bill should be made available to the members along with the English version).<sup>41</sup>

#### *Publication of a Bill before introduction*

The Chairman, on a request being made to him, may order the publication of a Bill in the Gazette, although no motion has been made for leave to introduce the Bill. In such a case the Bill is published together with the Statement of Objects and Reasons, and the Memorandum regarding Delegation of Legislative Power and the Financial Memorandum, if any.

In the following cases requests for publication of the Bills in the Gazette were received and acceded to:

1. The Hindu Succession Bill, 1954, published in the Gazette on 26 May 1954 and introduced on 22 December 1954 (by a motion, *see infra*);
2. The Drugs (Amendment) Bill, 1954, published in the Gazette on 28 May 1954 and introduced on 23 August 1954;
3. The Railway Stores (Unlawful) Possession Bill, 1954 published in the Gazette on 6 August 1954 and introduced on 23 August 1954.

In such a case, it is not necessary to move a motion for leave to

introduce the Bill, and, if the Bill is afterwards introduced, it is not necessary to publish it again.<sup>42</sup> The next step is for introduction only of such a Bill as distinguished from moving of a motion to introduce the Bill. The Minister or member in-charge of the Bill merely makes a statement that he introduces the Bill and thereafter the Chairman announces that the Bill is introduced. Where such a Bill undergoes any change before its formal introduction, a motion for leave to introduce it has to be moved as in the case of any other Bill.

The Hindu Succession Bill, 1954, was published in the Gazette prior to its introduction. However, the Bill to be introduced contained some modification.<sup>43</sup> Hence leave to introduce the Bill was obtained by moving a motion and after its adoption, the Bill was introduced on 22 December 1954.

#### *Circulation of copies of a Bill to be introduced*

During early years, there was no practice of advance circulation of copies of Bills to be introduced to members. Copies used to be circulated only after the Bills were introduced. The reason appears to be that as per the established practice, the Bills were not opposed on introduction.<sup>44</sup>

On an occasion, at the introduction stage, a Private Member gave a short explanatory statement about his Bill. A suggestion was made that members should be provided with copies of Bills before hand so that they had some idea of the Bills before they were called upon to give or refuse permission for the introduction. The Chairman observed that unless the Bills were introduced it was not the practice to circulate them. He, however, agreed to consider the suggestion.<sup>45</sup>

On another occasion also the member concerned was asked to explain his Bill and then the leave to introduce his Bill was granted. He complained that even he was not provided officially with a copy of his Bill to be introduced.<sup>46</sup>

There had been, however, an early instance of the Minister of Home Affairs laying a copy of the Draft States Reorganisation Bill which was being referred to the States and the connected proposals for amendment of the Constitution. While laying the same the Minister (Shri G.B. Pant) stated: "I consider it advisable to do so."<sup>47</sup>

As per the long established practice now, a Bill is ordinarily not included in the list of business until copies of the Bill have been made available to members at least two days before the day on which the Bill is proposed to be introduced.<sup>48</sup>

There have been some instances when objection has been taken to the introduction of a Bill without advance circulation and, therefore, introduction has been deferred.

On an occasion, due to heavy and incessant rains in Delhi, members did not get parliamentary papers in time. Amongst the papers were copies of four Bills, slated for introduction that day.<sup>49</sup> Objection was, therefore, taken to their introduction without circulation of copies of the Bills two days in advance as per the practice. Some members, therefore, wanted that the introduction of Bills be deferred. The Chair conceded the point.<sup>50</sup>

On another occasion, objection was taken to the introduction of the Trade Unions and the Industrial Disputes (Amendment) Bill, 1988, without advance circulation of copies of the Bill to be introduced. However, it was allowed to be introduced only after the Deputy Chairman explained that the Bill was important and members would get enough opportunity to express their views at the consideration stage of the Bill and some members staged a walk-out.<sup>51</sup>

The requirement of prior circulation of copies of the Bill before its introduction may be waived by the Chairman if the Minister concerned gives adequate reasons in a communication to the Chairman as to why the Bill is proposed to be introduced without its prior circulation.

The Criminal Law (Amendment) Bill, 1995 and the Sixth Schedule to the Constitution (Amendment) Bill, 1995 were introduced on 18 May 1995 and 17 August 1995 respectively, without circulation of copies of Bills to be introduced in view of the urgency of the Bills as per the reasons explained by the Minister concerned in communications to the Chairman.<sup>52</sup>

#### *Introduction of a Bill (First Reading)*

A Minister who desires to introduce a Bill has to give notice in writing of his intention to move for leave to introduce a Bill. The notice does not lapse upon prorogation of the House and a fresh notice is not necessary if the Bill is sought to be introduced in the next session. However, a fresh notice is required in the case of a Bill in respect of which sanction or recommendation granted under the Constitution has ceased to be operative.<sup>53</sup> If the concerned Minister in whose name the item stands in the list of business is absent from the House, his Deputy or any other Minister may move the motion on his behalf if the Chairman has permitted him to do so on a written request from the Minister.

On the day appointed for introduction of the Bill, the Chairman calls the Minister-in-charge who moves the motion that leave be granted to introduce the Bill (with reference to the long title as indicated in the list of business). After the Chairman has put the question and the motion is adopted, the Minister introduces the Bill. At the time of introduction of a Bill, no assurance can be given by a Minister.

On 5 May 1989, at the time of introduction of the Assam University Bill, 1989, a member made an objection and sought an assurance from the Minister of State for Education and Culture for the establishment of another university in the northern part of Assam. Rejecting the objection of the member, the Deputy Chairman made the following observation:

When the Bill comes up for discussion, the Minister will give you an assurance. You should know the procedure. At the time of introduction of the Bill no assurance can be given. There is a procedure at the time of the introduction of the Bill. You have made your point. But the Minister will give you assurance when the Bill comes for discussion.<sup>54</sup>

Members are also not allowed to make a speech at this stage.

On 24 March 1972, when the Constitution (Amendment) Bill, 1972 (to amend article 12) was sought to be introduced by a member, another member wanted to say a few words about the Bill. On this, the Deputy Chairman observed:

It is only the introductory stage. Unless you want to raise any objection or a point of order regarding introduction of the Bill, he should be allowed to introduce it. You will not be allowed to say anything at this stage.<sup>55</sup>

Similarly, on 30 January 1976, after moving for leave to introduce the Workers' Education Scheme Bill, 1976, a member wanted to make a speech on the Bill. The Chairman told him that he could not make a speech at that time. When he insisted, the Chairman then observed:

It is not allowed. Why do you again do something which is against the procedure?<sup>56</sup>

By convention, the motion for introduction is not ordinarily opposed. If any member intends to oppose a Bill at the introduction stage he writes in advance for the purpose.

On 27 March 1990, after the Home Minister sought leave of the House to introduce the Constitution (Sixty-fourth Amendment) Bill, 1990, a member was permitted by the Chair to oppose the introduction of the Bill. Immediately after he spoke, another member wanted to speak on the matter. Refusing permission to speak, the Deputy Chairman said that according to Kaul and Shakdher, anybody wanting to oppose the introduction of a Bill should give it in writing to the Chairman and since the first member had given it in writing he was allowed to oppose the introduction of the Bill. But the member argued that Kaul and Shakdher came only after the rules and hence, he be allowed to speak.

Disallowing him the Deputy Chairman observed:

---

Anyone who wants to oppose the introduction of a Bill should give it in writing to the Chairman... I am not allowing you... It is up to the discretion of the Chair.<sup>57</sup>

If the motion for leave to introduce the Bill is opposed, the Chairman after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate, put the question. Where the motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Chairman may permit a full discussion thereon.<sup>58</sup>

There have been several instances when motions for introduction of Bills have been opposed at the introduction stage; and sometimes the Bills have been permitted to be introduced after division. Some instances are:

The Special Marriage Bill, 1952 (member opposing allowed to make a statement, the Minister replied and then the Bill introduced);<sup>59</sup> the Himachal Pradesh and Bilaspur (New State) Bill, 1954;<sup>60</sup> the Hospitals and other Institutions (Settlement of Disputes) Bill, 1982;<sup>61</sup> the Monopolies and Restrictive Trade Practices (Amendment) Bill, 1983;<sup>62</sup> the Inter-State Water Disputes (Amendment) Bill, 1986;<sup>63</sup> the Indian Medical Council (Amendment) Bill, 1987 (introduced after a division);<sup>64</sup> the Constitution (Fifty-ninth Amendment) Bill, 1988 (all members who had given notices permitted to speak at the introduction stage);<sup>65</sup> the Constitution (Sixty-first Amendment) Bill, 1988;<sup>66</sup> and the Banking Regulation (Amendment) Bill, 1994 (introduced after a division).<sup>67</sup>

On an occasion, the motion for leave to introduce the Trade Unions (Amendment) Bill, 1994, was opposed; the motion was not put to the vote of the House.<sup>68</sup>

On another occasion, the motion for leave to introduce the University of Allahabad Bill, 2004 was put to the vote of the House. The motion was negated and the leave to introduce the Bill was not granted.<sup>69</sup>

Likewise, the introduction of the Rani Lakshmi Bai Central Agricultural University Bill, 2011 was opposed during its introduction on 28 December 2011 and the same was deferred. Later, on 22 May 2012, the Bill was allowed to be introduced in the House.

During the 230<sup>th</sup> Session when the Minister of Home Affairs moved the motion for leave to introduce the Prevention of Communal Violence (Access to Justice and Reparations) Bill, 2014, the Leader of Opposition and other members opposed the introduction of the Bill and as a result thereof motion for introduction of the Bill was deferred on 5 February 2014.

*Publication and circulation of a Bill after introduction*

After a Bill has been introduced, unless it has already been published before introduction, the Bill is got published by the Secretariat in the Gazette of India (Extraordinary, Part II, Section 2)<sup>70</sup> of the same date on which the Bill is introduced along with the Statement of Objects and Reasons, Financial Memorandum and the Memorandum on Delegated Legislation, if any. Since copies of the Bill to be introduced are ordinarily circulated in advance to the members of the Rajya Sabha, copies of the Bill as introduced are not circulated again to them. Copies are, however, circulated to the members of the Lok Sabha on reciprocal basis, after the Bill is introduced in the Rajya Sabha. Copies are also sent to the Ministry of Law, Ministry of Parliamentary Affairs, Supreme Court, President's Secretariat, Prime Minister's Office, etc.

In the beginning, as in the Central Legislature, copies of the Bills introduced in one House were not being circulated to the members of the other House, as a matter of course. On 4 August 1952, the Minister for Law (Shri C.C. Biswas) while moving the motion for consideration of the Prevention of Corruption (Second Amendment) Bill, 1952, as passed by the Lok Sabha, suggested that it would be helpful that when any Bill came from the other House, the Bill in the form in which it was introduced in the other House, including the Statement of Objects and Reasons and extracts from other relevant documents that might be annexed, should also be made available to the members of the Rajya Sabha. In the absence of these, the members of the Rajya Sabha were placed at a great disadvantage. He requested the Chairman to instruct the Secretary to circulate the copies, etc. of the Bill to the members of the Rajya Sabha in future.<sup>71</sup> The then Secretary, accordingly, took up the matter with the Secretary of the Lok Sabha and it was agreed that copies of the Bills introduced in one House should be supplied to the members of the other House.<sup>72</sup> Since then the practice of circulation of copies of Bills introduced in one House to the members of the other House is in vogue.

*Motions after introduction of a Bill (Second Reading)*

After a Bill is introduced, the Minister concerned may move any of the following motions in regard to his Bill namely, that (i) it be taken into consideration; or (ii) it be referred to a Select Committee of the Rajya Sabha; or (iii) it be referred to a Joint Committee of the Houses with the concurrence of the Lok Sabha; or (iv) it be circulated for the purpose of eliciting opinion thereon.<sup>73</sup>

Any of the motions may be made only after copies of the Bill have been made available for the use of the members. Any member may object to any such motion being made if the copies of the Bill have not been made available to the members at least two days before the day on which the motion is made, and such objection prevails, unless the Chairman allows

the motion to be made.<sup>74</sup> Although copies of a Bill are required to be circulated to the members two days before its introduction, ordinarily, the next motion in respect of a Bill is not made on the same day on which the Bill is introduced unless the Chairman so permits at the request of the concerned Minister, after taking all the facts into consideration as also the sense of the House. There are, however, instances where Bills were taken up for consideration on the same day on which they were introduced.<sup>75</sup>

#### *Motion for consideration*

No motion that a Bill be taken into consideration (or be passed) can be made by any member other than the member in-charge of the Bill.<sup>76</sup> As per the practice, ordinarily the member in-charge of the Bill makes a formal motion which is followed by his speech.

On an occasion, objection was taken by a member when the concerned Minister merely made a motion without the speech stating that he would like to hear the views of the members first. The member objecting to this course demanded that the Minister must explain the provisions of the Bill. The House was adjourned for the lunch-recess ahead of the scheduled time and the Minister gave a speech after the House reassembled.<sup>77</sup>

On another occasion, however, when the Minister concerned wanted to make a speech explaining the provisions of a Bill, he was not permitted in view of the fact that the Bill was to be passed without any discussion and it applied to the Minister also.<sup>78</sup>

On yet another occasion, the Prime Minister (Shri Rajiv Gandhi) formally moved motions for consideration of the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills, 1989 (regarding Panchayats and Municipalities) and thereafter, the two Ministers concerned with the two Bills made speeches one after another explaining the provisions of the Bills.<sup>79</sup>

At this stage amendments to any of the clauses of the Bill are not permitted to be moved. But if the member in-charge moves that the Bill be taken into consideration, any other member may move as an amendment that the Bill be referred to a Select Committee of the House or to a Joint Committee of the Houses with the concurrence of the Lok Sabha, or that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the amendment. If the member in-charge moves that the Bill be referred to a Select Committee of the House, any member may move as an amendment that it may be referred to a Joint Committee of the Houses and *vice versa*, or that it may be circulated for eliciting opinion.<sup>80</sup>

An amendment for reference of a Bill to a Select or Joint Committee, or for its circulation, is moved immediately after the motion for consideration

of the Bill is moved and not after the motion is adopted or in the midst of the clause-by-clause consideration of the Bill. However, there have been occasions when after the motion for consideration of a Bill was moved and part-discussed, the member in-charge of the Bill, in deference to the suggestions made by members, himself moved for reference of the Bill to a Select or Joint Committee.<sup>81</sup>

During consideration of the Lokpal and Lokayuktas Bill, 2011, as passed by the Lok Sabha, a member moved a motion that the Bill be referred to a Select Committee of the House. Later on, the Minister in-charge also moved a motion for reference of the Bill to the Select Committee. The Chair put the motion moved by the Minister to the vote of the House which was adopted on 21 May 2012.

When the motion that the Bill be taken into consideration is moved or on any subsequent day to which the discussion thereof is postponed, the principles of the Bill and its provisions are discussed generally, but the details of the Bill are not discussed further than is necessary to explain its principles.<sup>82</sup> Two Bills of a similar nature may be taken up for discussion on motions for their consideration together but the motions are put to the House separately.<sup>83</sup>

#### *Circulation for public opinion*

When a Bill has been introduced, the member in-charge of the Bill may move that the Bill be circulated for the purpose of eliciting opinion thereon.<sup>84</sup> Such a motion can also be moved by way of an amendment to a motion moved by the member in-charge of the Bill that it be taken into consideration or that it be referred to a Select or Joint Committee.<sup>85</sup> The motion for circulation of a Bill has to specify the period for eliciting public opinion thereon.<sup>86</sup>

The Bill is circulated for public opinion through the State Governments. They are asked to publish the Bill in their Gazettes and to forward in duplicate their opinions on the provisions of the Bill, opinions of members of the State Legislatures and of such public bodies and other persons as the State Governments may think fit to consult, within the period specified in the motion.<sup>87</sup>

After the opinions on a Bill have been received, they are examined and edited in the Secretariat so that they do not contain any objectionable or derogatory matter. Irrelevant or indecorous matter is eliminated therefrom. The opinions, so edited and consolidated, are printed, laid on the Table by the member in-charge of the Bill and circulated to members.<sup>88</sup>

Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried and the Bill is circulated in accordance with that

direction and opinions are received thereon, the member in-charge, if he wishes to proceed with the Bill thereafter, moves that the Bill be referred to a Select Committee of the House or Joint Committee of the Houses unless the Chairman allows a motion to be made that the Bill be taken into consideration.<sup>89</sup>

The following Bills as introduced in the Rajya Sabha were circulated for eliciting opinion:

The Special Marriage Bill, 1952;<sup>90</sup> the Cantonments (Amendment) Bill, 1952;<sup>91</sup> the Hindu Marriage and Divorce Bill, 1952;<sup>92</sup> the Hindu Minority and Guardianship Bill, 1953.<sup>93</sup> Except the Cantonments (Amendment) Bill, 1952, which was referred to a Select Committee, the other three Bills were referred to Joint Committees and all the Bills were eventually passed.

*Motion for reference to Select/Joint Committee*

When a motion that a Bill be referred to a Select Committee is made, as a matter of general procedure and practice, the motion sets out the names of the members of the House proposed to be appointed on the Committee.<sup>94</sup>

When the Trade Marks Bill, 1995, as passed by the Lok Sabha, was listed for consideration, some members wanted that the Bill should be referred to a Select Committee of the House. The Minister of Industries agreed and moved a formal motion for reference of the Bill to the Select Committee. However, names of members proposed to be appointed were not announced at that time. They were announced the next day by the Deputy Chairman.<sup>95</sup>

No member is appointed to a Select Committee, if he is not willing to serve on the Committee. The mover of the motion has to ascertain whether a member proposed to be named by him is willing to serve on the Committee.<sup>96</sup>

The Minister of Law had moved a motion for reference of the Special Marriage Bill, 1952 to a joint Committee. Due to reluctance of some members to serve on the Committee the Minister gave alternative names.<sup>97</sup>

When the Minister concerned moved a motion to refer the Patents (Amendment) Bill, 1995, as passed by the Lok Sabha, to a Select Committee of the House, in deference to the wishes of certain members, a member whose name was there in the motion stated that he had already informed the Minister of Parliamentary Affairs that he would not be available to serve on the Committee.<sup>98</sup>

If a private member as well as the Minister in-charge of the Bill give notices for moving amendments/motions for reference of the Bill to a Select or Joint Committee, the notice given by the Minister is given precedence.

The Indian Veterinary Council Bill, 1981 was to be taken up for consideration as per the list of business. The Minister in-charge of the Bill gave notice of a motion for reference of the Bill to a Joint Committee. The motion was included in a supplementary list of business and circulated. Earlier, a member had also given notice of an amendment to the motion for consideration that the Bill be referred to a Joint Committee. After the adoption of the Government motion for reference of the Bill to the Joint Committee, the private member's amendment was not put although it contained names of members different from those proposed in the Minister's motion. The Deputy Chairman ruled, on a point of order, that since the member in-charge of the Bill himself had moved a motion for reference of the Bill to a Joint Committee, there could not be another motion as an amendment by another member; the amendment could only be to the motion for consideration of the Bill.<sup>99</sup>

On another occasion, the Minister in-charge of the Bill had given notice for consideration of the Chit Funds Bill, 1982, as passed by the Lok Sabha. In the Rajya Sabha a demand was made that the Bill be referred to a Select Committee of the House as was done in the Lok Sabha. The Minister, therefore, moved a motion accordingly. Amendments earlier given by members for reference of the Bill to a Select Committee were not permitted on the ground that the Government motion had precedence and was adopted.<sup>100</sup>

But if the amendments of members are different in content they are treated separately although all are for the reference of the Bill to a Select Committee.

To the motion for consideration of the Press Council Bill, 1956, three amendments for reference of the Bill to a Select Committee were received namely, (i) of fifteen members to report within eight days; (ii) of twenty members to report by the first day of the next session; and (iii) of twenty-one members to report by the last day of the first week of the next session. They were moved and put separately as each amendment was considered different on account of number of members and time-limit to report, as proposed.<sup>101</sup>

In the motion for reference of a Bill to a Select Committee, names of members of the Rajya Sabha only are included. In the case of a Government Bill, the name of the Minister in-charge is generally included in the motion.

---

However, the motions for reference of the Trade Marks Bill, 1995 and the Patents (Amendment) Bill, 1995 to Select Committee, did not contain names of Ministers.<sup>102</sup>

Ministers who are members of the other House may also be included in the motion but Ministers so named as members of the Committee have no voting right in such a Committee.<sup>103</sup>

If the names given in the original motion for reference of the Bill to a Select or Joint Committee require any change, an amendment is moved for the purpose unless the House agrees to such a change without a formal amendment.

Two names of members who were proposed in the motion for reference of the Hindu Marriage and Divorce Bill, 1952, were changed as they were to retire. The House adopted the motion in an amended form.<sup>104</sup>

The original motion for reference of the Copyright Bill, 1956 to a Joint Committee proposed ten members from the Rajya Sabha and twenty from the Lok Sabha. The Minister while moving the motion proposed fifteen members from the Rajya Sabha and thirty from the Lok Sabha. The Chairman asked the Minister to seek the permission of the House which the Minister did. Thereafter, the Chairman asked the House whether the Minister had the leave of the House for the alteration proposed. No member dissented.<sup>105</sup>

The motion for reference of the States Reorganisation Bill, 1956, was amended for substituting names proposed in the original motion before it was put to the vote of the House.<sup>106</sup>

To the motion for consideration of the Railway Protection Force Bill, 1956, an amendment was moved for reference of the Bill to a Select Committee. Another amendment was moved to that amendment to add names of members. The amendments were, however, negated.<sup>107</sup>

After the motion for concurrence to refer the Lokpal Bill, 1985 to a Joint Committee, was adopted, a point was raised that there was no lady member on the Committee. The Minister concerned offered to make amend and substitute a lady member for another member on the Committee. However, the House after considering the procedural issue involved took the view that the Minister should move a formal amendment for the purpose. This was done when the House reassembled after the lunch-recess on the same day.<sup>108</sup>

Motions for reference of the Payment and Settlement Systems (Amendment) Bill, 2014, the Repealing and Amending Bill, 2014 and the Real Estate (Regulation and Development) Bill, 2013 to Select Committees were amended for substituting names proposed in the original motions after the House had agreed to such changes before the motions were put to the vote of the House.<sup>109</sup>

The number of members who may be appointed on a Committee is not fixed and varies from Committee to Committee. However, as per the practice the composition of the Committee as far as possible represents the parties/groups in the House.

When the motion for concurrence to refer the Constitution (Eightieth Amendment) Bill, 1993, to a Joint Committee was moved by the concerned Minister, members objected to the exclusion of representatives of certain parties therefrom. Further consideration of the motion was, therefore postponed. The next day, the concerned Minister moved a fresh motion in deference to the views expressed by the members.<sup>110</sup>

After the motion for reference of the Patents (Amendment) Bill, 1995, to a Select Committee was moved and adopted, objection was taken by some members that the representatives of some major parties/groups in the House were excluded from the proposed Committee. It was contended that the composition of the Committee should reflect the composition of the House. Later, after informal discussion, the Minister concerned brought forward a revised motion but that also was considered as not reflecting the strength of various parties/groups in the House. Subsequent to the adoption of the motion, some members resigned, thereby bringing the proportion of membership of the Committee amongst the ruling party and opposition parties near to that in the House.<sup>111</sup>

The motion appointing the Committee mentions a specific date by which, or indicates the period within which its report is to be presented to the House. Where a specific date is not indicated, the usual instructions are for the Committee to report ‘by the last day of the first week of the next session’ or ‘on the first day of the next session.’

The motion of concurrence to refer the Constitution (Third Amendment) Bill, 1954 to a Joint Committee was adopted by the Rajya Sabha on 16 September 1954 and the Committee reported on 20 September 1954, as fixed;<sup>112</sup> the time fixed for report by the Select Committee on the Major Port Trusts Bill, 1963, was three days;<sup>113</sup> on the Chit Funds Bill, 1982, four days;<sup>114</sup> on the Trade Marks Bill, 1995, fourteen days<sup>115</sup>; on the Mines and Minerals (Development and Regulation) Amendment Bill, 2015, eight days;<sup>116</sup> and on the Coal Mines Special Provision Bill, 2015, eight days.<sup>117</sup>

It is a convention that members proposed to be appointed on the Committee are not ordinarily permitted to speak on the motion for reference of a Bill to a Select or Joint Committee.<sup>118</sup>

When the motion for concurrence to the recommendation of Lok Sabha to join the Joint Committee of the Houses on the Untouchability (Offences) Bill, 1954 was taken up, Dr. B.R. Ambedkar, whose name was one of the names proposed for serving on the Joint Committee,

said that it was impossible for him to remain silent during the discussion on that Bill, that he was aware of the convention that a member who was on a Select Committee should not speak or take part in the debate on the motion for reference to a Select Committee and that if that convention was to be rigidly followed in the House, he would like his name to be removed from the list of members to serve on the Committee.

The Deputy Chairman said:

Yes, it is a rigid one; we have been observing it... the convention we have observed in this House is that members on the Select Committee are not to speak on such a motion. On one or two occasions permission has been refused...and that is also the convention, I am told, in the other House.<sup>119</sup>

On a similar occasion, on 21 May 2012 when a motion for referring the Lokpal and Lokayuktas Bill, 2011 as passed by the Lok Sabha to a Select Committee of Rajya Sabha was moved by Shri Naresh Agarwal, names of fifteen members were proposed to become members of the Committee which included the name of Shri Arun Jaitley, Leader of Opposition in Rajya Sabha. Despite his name being proposed, Shri Jaitley expressed his willingness to intervene in the discussion on the motion and was allowed.<sup>120</sup>

So far as the scope of discussion on the motion is concerned, according to the practice when a motion for concurrence comes up, a few general remarks are made and a full discussion of the Bill is not necessary at that stage.<sup>121</sup> It has become the general practice that motions for reference of the Bills to Joint Committees are adopted without discussion.

Motions for reference to Joint Committees of the Indian Veterinary Council Bill, 1981, the Mental Health Bill, 1981, the Shipping Agents (Licensing) Bill, 1987, the Acquired Immuno Deficiency Syndrome (AIDS) Prevention Bill, 1989, the Representation of the People (Amendment) Bill, 1990, were adopted without discussion.<sup>122</sup>

After the motion for reference of a Bill to a Select or Joint Committee is adopted by the House, the House is committed to the principles of the Bill.

When the House was discussing the motion for concurrence of the Preventive Detention (Second Amendment) Bill, 1952, for being referred to a Joint Committee, a point of order was raised that the acceptance of the motion should not debar the House later from questioning the principles of the Bill. The Chairman ruled, "When this motion is carried in this House, the House is undoubtedly committed to the principles. But any members who serve on the Select Committee may, if they so desire, make their own reservations, open or otherwise." He also

clarified that when the Bill came to the House from the other House, the House would be at liberty to discuss the principles, the implications, the details, the clauses, and so on.<sup>123</sup>

When a motion for reference of a Bill to a Joint Committee is adopted by the Rajya Sabha, it is transmitted to the Lok Sabha for concurrence along with a message. The motion gives the names of members of the Rajya Sabha appointed to the Committee and also fixes the number of members from the Lok Sabha who may join the Committee. The Lok Sabha is requested to nominate its members on the Committee and communicate their names to the Rajya Sabha. The proportion of members on a Joint Committee from the Rajya Sabha to the Lok Sabha is 1:2.

The Lok Sabha adopted a motion for reference of the Preventive Detention (Second Amendment) Bill, 1952, to a Joint Committee consisting of forty-two members, thirty from the Lok Sabha and twelve from the Rajya Sabha. While concurring in the motion, a point was raised that the procedure to be followed in the constitution of a Joint Committee should be first settled and that it should not be left to the other House to dictate the number of members to be appointed by the House to the Joint Committee. The Chairman observed that pending a complete drawing up of the procedure by which Joint Select Committees were to be established, he had pressed on the Government that as far as possible such Joint Committees should be set up forthwith without prejudice to the question of framing of the rules of procedure in that regard, and that the procedure adopted on the present occasion did not bind the House.<sup>124</sup>

The Rules Committee which considered the matter was of the opinion that on every Joint Committee the number of members to be nominated by the Lok Sabha and the Rajya Sabha should be in the proportion of 2:1. The Committee had also formulated a set of rules for Joint Committee on Bills for inclusion in the Rules of Procedure of both Houses for the purpose. However, the Rules Committee of the Lok Sabha was of the opinion that the practice in this regard was working satisfactorily and there was no need to make any elaborate provisions in the rules on the subject.<sup>125</sup> This proportion has, therefore, been settled by mutual consultations.

If any motion of concurrence adopted by the other House contains any mistake of factual nature, or the other House makes any recommendation modifying the terms of the motion already adopted by the initiating House, the mistake is rectified or the modification is made by adoption of another motion and reported to the first House by a message.

The Lok Sabha while adopting the motion for concurrence in the Joint Committee on the Hindu Minority and Guardianship Bill, 1953, recommended that the Joint Committee be instructed to report on or

before 31 March 1955, instead of “on or before the last day of the first week of the next session” as contained in the original motion. The message of the Lok Sabha was reported to the Rajya Sabha on 10 December 1954 and the Rajya Sabha concurred in that recommendation by adoption of a motion.<sup>126</sup>

The Rajya Sabha adopted a motion for reference of the Limitation Bill, 1962, to a Joint Committee consisting of ten members of the Rajya Sabha and twenty members of the Lok Sabha. The Lok Sabha in its message of concurrence appointed thirty members. The error was rectified by a motion in the Lok Sabha. A message was received and reported to the Rajya Sabha, omitting the names of ten excess members.<sup>127</sup>

The Lok Sabha had communicated names of thirty members of that House to the Rajya Sabha to serve on the Joint Committee on the Shipping Agents (Licensing) Bill, 1987 and the same was conveyed to the Rajya Sabha. The Lok Sabha adopted another motion to amend the earlier motion for substitution of a member for the one whose name was already communicated and sent a message to that effect to the Rajya Sabha.<sup>128</sup>

#### *Reference to a Joint Committee by Presiding Officers*

At the end of discussion on the motion for consideration of the Constitution (Eighty-first Amendment) Bill, 1996 (insertion of new articles 330A and 332A), introduced in the Lok Sabha, the Lok Sabha authorised the Speaker to refer the Bill to a Joint Committee in consultation with the Chairman, with instruction that the Joint Committee should present its report by the last day of the first week of the Winter Session, 1996. Accordingly, the Bill was referred to a Joint Committee consisting of 31 Members—21 from the Lok Sabha and 10 from the Rajya Sabha.<sup>129</sup>

#### *Reference to Department-related Parliamentary Standing Committee*

With the introduction of the Department-related Parliamentary Standing Committees in April 1993, Bills pertaining to the related Ministries/Departments are examined by them and reports are presented to the Houses of Parliament. The Bills introduced in either of the Houses then are referred to Committees by the Chairman or the Speaker, as the case may be.<sup>130</sup> The procedure followed in such a reference is that after a Bill is introduced in the House, if the subject-matter thereof relates to a Committee which functions under the control of the Chairman, then he refers the Bills to that Committee.<sup>131</sup> If the Bill relates to a Committee which is under the control of the Speaker, then the Bill is referred to the Committee by the Speaker in consultation with the Chairman. Similar procedure is followed in the Lok Sabha.<sup>132</sup> There have been instances of the Bills being referred

to the Department-related Committees even before introduction or in the midst of their consideration in the House.

The Cable Television Networks (Regulation) Bill, 1993, as introduced in the Rajya Sabha was due to be taken up for consideration on 10 August 1993, in view of the urgency, as stated by the concerned Minister. A demand was made that it should be referred to the concerned Committee. The Bill was, therefore, not taken up for consideration. Subsequently, the Speaker in consultation with the Chairman referred the Bill to the Standing Committee related to the Ministries of Information and Broadcasting and Communications.<sup>133</sup>

The Chairman in consultation with the Speaker referred the Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions (Amendment) Bill, 1993 (which was proposed to be introduced in the Lok Sabha) to the Standing Committee related to the Ministries of Industry, Steel and Mines.<sup>134</sup>

The motion for leave to introduce the Trade Unions (Amendment) Bill, 1994, was opposed at the introduction stage in the Rajya Sabha and, therefore, the motion was not moved. Subsequently, it was referred by the Speaker, to the Standing Committee on Labour and Welfare.<sup>135</sup>

The motions for consideration of (i) the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the Delhi High Court Bill, 1994 and (ii) the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the Supreme Court Bill, 1994, were discussed on 22 and 23 August 1994. On the latter day, the Minister of State in the Ministry of Law, Justice and Company Affairs, agreeing with the suggestions made by some members, informed that the Chairman would be requested to refer the Bills to the Standing Committee on Home Affairs. The Chairman accordingly referred the Bills to the Committee.<sup>136</sup>

Whenever the Bills are referred to the Standing Committees, members are informed accordingly through a Parliamentary Bulletin Part-II. While referring a Bill to a Standing Committee, the Chairman or the Speaker may specify the time within which the Committee should report.<sup>137</sup>

The Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions (Amendment) Bill, 1993, which was referred to the concerned Standing Committee, as mentioned above, was to report within a month. However, the Committee was given extension upto 18 March 1994.<sup>138</sup> The Criminal Law Amendment Bill, 1995 was referred to the Standing Committee on Home Affairs on 18 May 1995 with instructions to submit its report within two days.<sup>139</sup> The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1997 was referred to the Standing Committee on Labour and Welfare on 22 October 1997 with instructions to submit its report by 31 October 1997.<sup>140</sup> The Lotteries (Regulation) Bill, 1998 and the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1998

were referred to the Standing Committee on Home Affairs on 10 June 1998 with instructions to submit its reports by 3 July 1998.<sup>141</sup> Similarly, the Parliamentary Standing Committee on Finance was to examine the Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1998<sup>142</sup> (referred to the Committee on 30 July 1998) by the first day of the next session. The Lokpal Bill, 1998 referred to the Standing Committee on Home Affairs on 7 December 1998 was to be examined and reported by 11 December 1998.<sup>143</sup> The Central Vigilance Commission Bill, 1998 was referred to the Parliamentary Standing Committee on Home Affairs on 10 December 1998 with instructions to report by 16 December 1998.<sup>144</sup> While referring the Semiconductor Integrated Circuits Layout-Design Bill, 1999 to the Parliamentary Standing Committee on Science and Technology, Environment and Forests on 21 January 2000, it was felt necessary to specify the time for examination and report by the Committee by 15 February 2000.<sup>145</sup> Similarly, the Citizenship (Amendment) Bill, 2003 was referred to the Standing Committee on Home Affairs on 30 May 2003 with instructions to submit its report by 1<sup>st</sup> week of next session (199<sup>th</sup> Session).<sup>146</sup>

Likewise the Telecom Regulatory Authority of India (Amendment) Bill, 2008 was referred<sup>147</sup> to the Standing Committee on Information Technology on 19 December 2008 for examination and report by 31 January 2009; the Civil Liability for Nuclear Damage Bill, 2010 was referred<sup>148</sup> to the Standing Committee on Science and Technology, Environment and Forests for examination and report within two months; the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 and the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 were referred<sup>149</sup> to the Standing Committee on Human Resource Development for examination and report within two months; the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 was referred<sup>150</sup> to the Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report within four weeks.

A Bill which has already been referred to a Department-related Standing Committee and passed by one House may be referred to a Select Committee by another House.

The Trade Marks Bill, 1995, was referred to the concerned Department-related Standing Committee on 6 August 1993. The Bill was passed by the Lok Sabha on 29 May 1995. The Rajya Sabha referred the Bill to a Select Committee on 7 August 1995. Similarly, the Coast Guard (Amendment) Bill, 1996 introduced in Rajya Sabha was referred to Department-related Parliamentary Standing Committee on Defence, which presented its report on 22 April 1997. Later on, again the Bill was referred to a Select Committee of the Rajya Sabha on 6 August 1997 and the report was presented on 24 November 1997. Finally, the Bill was withdrawn on 28 November 2001.<sup>151</sup>

A Bill which has been referred to a Department-related Standing Committee and pending in the originating House may be referred to a Select Committee of the same House.

The Real Estate (Regulation) and Development Bill, 2013 was introduced in the Rajya Sabha on 14 August 2013. The Bill was referred to the Department-related Standing committee on Urban Development on 9 September 2013. The Report of the Committee was laid on the Table of the House on 13 February 2014. The Bill was again referred to a Select Committee of the Rajya Sabha on 6 May 2015. The Report of the Select Committee was presented to the House on 30 July 2015.

Like Joint Committees on Bills, Department-related Parliamentary Standing Committees also become defunct consequent on the dissolution of the Lok Sabha. Bills introduced and pending in the Rajya Sabha which had been referred to erstwhile Committees may be referred afresh to them after their reconstitution, so far as the Committees under the control of the Speaker are concerned. In the case of the Committees under the control of the Chairman, they may, after reconstitution, *suo motu* take up the Bills earlier referred to them.<sup>152</sup>

#### *Procedure after presentation of report of Select/Joint Committee*

After the presentation of the report of a Select or Joint Committee to the House, the member in-charge may make any one of the following motions, namely, that the Bill, as reported by the Committee be taken into consideration; or that the Bill, as reported, be recommitted either without limitation, or with respect to particular clauses or amendments only or with instructions to the Committee to make some particular or an additional provision in the Bill; or that the Bills, as reported, be circulated or re-circulated, as the case may be, for the purpose of obtaining opinion or further opinion thereon. In case the member in-charge moves that the Bill as reported by the Select or Joint Committee be taken into consideration any member may object to the motion being made if the copies of the report have not been made available to the members for two days, unless the Chairman allows the motion to be made.<sup>153</sup> The debate on the motion is confined to the consideration of the report of the Committee and the matters referred to therein. But members can advance alternative suggestions consistent with the principles of the Bill.<sup>154</sup>

If a member in-charge moves that the Bill as reported be taken into consideration, any member can move an amendment that the Bill be recommitted or be circulated or-recirculated for eliciting opinion or further opinion, as the case may be.<sup>155</sup>

On a motion moved by the Minister of Finance to take into consideration the Banking Laws (Amendment) Bill, 1968, as reported by the Select Committee, a member moved an amendment for recommittal of the Bill to the Select Committee and wanted that his amendment should be discussed and voted first before discussing the Minister's motion. The Deputy Chairman did not agree pointing out that the general practice was to discuss the motion and amendments thereto together.<sup>156</sup>

On 19 March 2015 when Shri Narendra Singh Tomar, Union Minister of Steel and Mines, moved a motion to take into consideration the Mines and Minerals (Development and Regulation) Amendment Bill, 2015, as reported by the Select Committee of Rajya Sabha, Shri P. Rajeeve moved an amendment for recommittal of the Bill to the same select Committee for further consideration.<sup>157</sup>

Similarly, on 20 March 2015 when the Minister of State of the Ministry of Coal, Shri Piyush Goyal moved a motion to take the Coal Mines (Special Provisions) Bill, 2015 as reported by the Select Committee of Rajya Sabha into consideration, Shri P. Rajeeve moved an amendment for recommittal of the Bill to the same select Committee for further consideration. While proposing the amendment, he stated that the recommittal of the Bill to the Select Committee was necessary in order to uphold the democratic principles of the functioning of the Select Committee and to send a message to all future Select Committees that if they do not function in a proper manner, the House is supreme and has the power as per the existing rules, to recommit the same Bill to the same Committee for further examination.<sup>158</sup>

#### *Procedure after presentation of report of Standing Committee*

After the report of a Standing Committee on a Bill is presented, the Bill is taken up for consideration and thereafter for clause-by-clause consideration. In other words, there is no motion that the Bill as reported by the Committee be taken into consideration unlike in the case of a Bill reported by a Select or a Joint Committee. The reason appears to be that the report of the Standing Committee 'is based on broad consensus' and has 'persuasive value' to be 'treated as considered advice given by the Committee'.<sup>159</sup> It is for the Minister in-charge of the Bill or any member to move necessary amendments in the House in the light of the recommendations or suggestions made by the Committee.

The Standing Committee concerned to which Dr. B.R. Ambedkar University Bill, 1994 was referred, suggested a number of amendments in the Bill and amendments were moved during the clause-by-clause consideration of the Bill, in the House by the Minister in-charge of the Bill.<sup>160</sup>

*Clause-by-clause consideration*

After a motion that the Bill be taken into consideration has been carried, the Bill is taken up for clause-by-clause consideration. The Chairman may call each clause separately and when the amendments relating to it have been dealt with, he puts the question: "That this clause (or, as the case may be, that this clause as amended) stand part of the Bill".<sup>161</sup> The Chairman may, if he thinks fit, postpone the consideration of a clause.<sup>162</sup>

At the clause-by-clause consideration of the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Amendment Bill, 1953, a point of order was raised that in view of certain obvious mistakes in the Bill it was not desirable to proceed with the Bill unless those mistakes were rectified. The Chairman ruled that if the House knew that there were mistakes, it was not right to pass the Bill knowing that there were mistakes. He, therefore, postponed the consideration of the Bill till 12 noon that day. At 12 noon the Bill was taken up and the Minister moved the amendments to rectify the errors.<sup>163</sup>

A clause in the State of Nagaland (Amendment) Bill, 1981, provided that "the allowances and privileges of the Governor of Nagaland would, until provision in that behalf was made by Parliament under clause (3) of article 158 of the Constitution, be such as the President might by order determine." A corrigendum was issued for deletion of the words "of the Constitution." A member contended that this should have been done by a formal amendment and not through a corrigendum. The Deputy Chairman agreed but stated that in future it should be done and this should not be quoted as a precedent.<sup>164</sup>

Schedule or Schedules, if any, is or are generally taken up after the clauses are disposed of. Schedules may be amended in the same manner as clauses. Consideration of new Schedules follows consideration of the original Schedules.<sup>165</sup> Clauses and Schedules may also be put together as one question. Clause one, the Enacting Formula, the Preamble, if any, and the Title of the Bill are taken up for consideration after all other clauses and Schedules (including new clauses and new Schedules) have been disposed of.

**Amendments to clauses**

Notice of an amendment, like any other notice<sup>166</sup> is required to be given in writing addressed to the Secretary-General, duly signed by the member, and delivered in the Notice Office between the hours notified in the Bulletin from time to time.<sup>167</sup> The notice is required to be given at least one day before the day on which the Bill is to be considered in the House. Any member may object to the moving of an amendment if the requisite notice has not been given and such objection prevails unless the Chairman allows the amendment to be moved.<sup>168</sup> The Chair has the discretion

to allow the amendments to be moved at shorter notice in exceptional cases.<sup>169</sup> An amendment should be in the proper form and if necessary, it is suitably edited by the Secretariat in consultation with the member concerned before it is circulated.

The conditions governing admissibility of amendments are:

- (i) *An amendment should be within the scope of the Bill and relevant to the subject-matter of the clause to which it relates.*<sup>170</sup>

The State of Nagaland (Amendment) Bill, 1981 did not include any amendment to section 32 of the principal Act. The Minister concerned gave an amendment to sub-section (2) of that section relating to laying of rules. He gave notice of a motion for suspension of rule 96(i) also in relation to that amendment. The amendment was circulated in a separate list with a footnote drawing attention to the motion for suspension of rule 96(i) which was also circulated separately. The motion for suspension of the rule was moved and thereafter the amendment was adopted.<sup>171</sup>

- (ii) *An amendment which has merely the effect of a negative vote is inadmissible.*<sup>172</sup>

Although an amendment which seeks to omit a clause of a Bill is circulated and even put to the vote of the House, the appropriate course underlying the principle of this condition is to vote against the clause. The condition, however, does not apply where the amendment merely seeks to omit certain words or sub-clauses, if any, provided that such an amendment does not have the effect of omission on the whole of the clause.

When a member wanted to move an amendment to delete a clause of the Constitution (Amendment) Bill, 1971, the Chairman ruled it out of order on the ground that it was a negative amendment and the member could vote against the clause.<sup>173</sup>

- (iii) *An amendment should not be inconsistent with previous decision of the House on the same question.*<sup>174</sup>

- (iv) *An amendment should not be frivolous or be such as to make the clause which it proposes to amend unintelligible or ungrammatical.*<sup>175</sup>

If an amendment refers to, or is not intelligible, without a subsequent amendment or schedule, notice of the subsequent amendment or schedule has to be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.<sup>176</sup>

### Amendments to amending Bill

The scope of amendments to a Bill seeking to amend an Act is limited. Normally, amendments to sections of the principal Act which are not touched by the amending Bill are inadmissible unless they are consequential upon the amendments sought to be made through the amending Bill or fall within the scope of the Bill.

When the Constitution (Seventh Amendment) Bill, 1956, was under consideration, a member sought to move certain amendments to amend articles 29, 30 and 35 of the Constitution, which were not touched by the Bill. The Deputy Chairman ruled out the amendments. When the member raised the point during the clause-by-clause consideration of the Bill and stated that a similar amendment was permitted to be discussed in the other House, the Deputy Chairman stated that the convention in this House was not to allow amendments to a section which is not being sought to be amended by the Government.<sup>177</sup>

### Amendments to repealing and amending Bill

The object of a repealing and amending Bill is “to excise dead letter, prune off superfluities and reject inconsistent enactments.” It has been held that a repealing and amending Bill should include only purely formal amendments on which there could be no controversy and which raise no question of principle.

At the clause-by-clause consideration of the Repealing and Amending Bill, 1953, two entries relating to the Delhi Road Transport Authority Act, 1950 and the Forward Contracts (Regulation) Act, 1952, were held as substantive amendments and they were omitted by moving amendments, after some members contended and the Deputy Chairman conceded that the entries were not of formal nature.<sup>178</sup>

### Amendments to expiring laws continuance Bill

When it is desired to continue an Act which is limited in duration, a separate Bill extending the life of such an Act to a specified date is brought before Parliament. The scope of amendments to such Bills is very limited. Amendments which seek to amend the sections of the parent Act not covered by the Bill are outside the scope of the Bill.

While the Preventive Detention (Amendment) Bill, 1954, was being discussed, a member sought to move certain amendments to the principal Act. The Deputy Chairman ruling them out of order observed that the Bill came within the category of Expiring Laws Continuance Bill and following the well-established practice in the House of Commons, it would not be competent to seek amendments in the principal Act proposed to be continued.<sup>179</sup>

Again, when a member sought to move an amendment to the Preventive Detention (Continuance) Bill, 1957, relating to the area to which the Act should apply, the Deputy Chairman reiterated the earlier ruling on the subject and further cited from May's *Parliamentary Practice*, the 15<sup>th</sup> Edition (pp. 532-33) that the amendments which could be moved to an Expiring Laws Continuance Bill were subject to the following limitations:

- (a) an amendment is outside the scope of the Bill if it seeks to amend the provisions of the Act proposed to be continued or to make permanent such Act or to include in the Bill a statute which has already ceased to have effect; and
- (b) an amendment may be moved to the operative clause of the Bill to alter the date to which the Act is to be continued.<sup>180</sup>

#### Amendments requiring President's recommendation

A member, desiring to move an amendment which under the Constitution cannot be moved in the House without the previous sanction or recommendation of the President, has to annex to his notice the recommendation conveyed through a Minister and the notice is not treated as valid until this requirement is complied with.<sup>181</sup>

As per the practice, members generally apply to the Secretariat for obtaining the recommendation of the President on their behalf. A copy of the member's letter along with a copy of the amendment requiring recommendation is forwarded to the Ministry concerned for necessary action. The order of the President granting or withholding the recommendation is communicated to the Secretary-General by the Minister concerned in writing.<sup>182</sup> If time permits it is published in the Parliamentary Bulletin Part-II.<sup>183</sup>

On 27 August 2010, amendments given by Private Members to clause 6 of the Civil Liability for Nuclear Damage Bill, 2010 were moved only after obtaining the President's recommendation under article 117(1) of the Constitution.<sup>184</sup>

On 2 September 2013, amendment given by a Private Member to clause 97 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013 as passed by Lok Sabha, required President's recommendation as the amendment sought to exempt the stamp duty and income tax from the compensation awarded to land owner. The said recommendation was communicated by the Minister of Rural Development for moving of amendment.

On 19 February 2014, notices of amendments to the consideration and passing of the Andhra Pradesh Reorganisation Bill, 2014 were received from two Members. As the proposed amendments to clauses 46 and 67 of the Bill attracted article 117(1) of the Constitution, the President's recommendation for consideration of the Bill was communicated by the Minister of Home Affairs to the Secretariat on the 20 February 2014.

Generally, in the Rajya Sabha notices of amendments are received seeking to vary the incometax or excise duty *i.e.* either to revise or lower the rates prescribed in the Finance Bill before the House. Such notices are forwarded to the Ministry of Finance for obtaining the recommendations of the President and cannot be moved without the recommendation,<sup>185</sup> since amendments which seek to impose or vary a tax or duty in which States are interested cannot be moved without the recommendation of the President.<sup>186</sup>

Two amendments to clause 2 of the Indian Tariff (Fourth Amendment) Bill, 1952, were ruled out in the Rajya Sabha as they required sanction of the President under the rules and the sanction was not given.<sup>187</sup>

Recommendation of the President is, however, not necessary, for moving an amendment which seeks to abolish or reduce the tax proposed in the Bill.<sup>188</sup>

#### List of amendments

Amendments of which notices have been given are as far as practicable arranged in the list of amendments, issued from time to time, in the order in which they may be called in the House. In arranging amendments which seek to raise the same question at the same point of a clause, precedence is given to the amendment of which notice has been received from the member in-charge of the Bill. Subject to this, amendments are arranged in the order in which notices thereof have been received.<sup>189</sup> Generally, the amendments are arranged in the list clause-wise in this order—amendments to substitute a new clause for an existing clause; amendments to omit a sub-clause or a sub-paragraph; amendments to substitute a sub-clause or a sub-paragraph for an exiting sub-clause or a sub-paragraph; amendments to omit certain words; amendments to substitute, add or insert certain words; and amendments to add or insert a new clause. In the case of identical amendments received from more than one member, names of members are clubbed. Amendments relating to clauses and Schedules of a Bill are listed separately from those to the motion for consideration of the Bill *i.e.* amendments to refer a Bill to a Select or a Joint Committee or amendments to circulate a Bill for the purpose of eliciting opinion thereon. Several lists of amendments may be issued in respect of a Bill; a consolidated

list of all amendments may also be issued, if time permits. The lists of amendments are circulated to all the members of the Rajya Sabha, Ministers and others.<sup>190</sup>

All notices of amendments lapse on the prorogation of the House, and fresh notices must be given for the next session.<sup>191</sup> However, in the case of a Government Bill, an amendment of which notice has been received from the Minister in-charge, does not lapse by reason of the fact that he has ceased to be a Minister or a member and such amendment is printed in the name of the new Minister in-charge of the Bill.<sup>192</sup>

The Chairman is empowered to select the new clauses or amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgement upon it.<sup>193</sup>

#### Moving consideration and withdrawal of amendments

When a motion that the Bill be taken into consideration has been carried, any member may, when called upon by the Chairman, move the amendment for which notice was given by him previously. In order to save time and repetition of arguments, a single discussion is generally allowed to cover a series of interdependent amendments.<sup>194</sup> An amendment to a clause of a Bill has to be moved immediately after the clause is placed before the House. The member should be present in the House to move his amendment when the clause to which it relates is taken up. There is no provision in the rules for moving an amendment by a member on behalf of another. If a member, when called to move his amendment, is not present in the House he loses the opportunity to move it.

When amendments to a particular clause have been moved, members may speak on the clause and the amendments thereto. If time permits, members tabling amendments do get an opportunity to speak in favour of their amendments. Amendments are ordinarily considered in the order of the clauses of the Bill to which they relate.<sup>195</sup> After the discussion on a clause is over, the Chair puts the amendments which have been moved to the vote of the House.

An amendment which has been moved can be withdrawn only by the leave of the House, on a specific request to that effect by the mover. If leave to withdraw the amendment is opposed, it has to be put to vote of the House for disposal.<sup>196</sup> If an amendment has been proposed to an amendment, the original amendment cannot be withdrawn until the amendment proposed to it has been disposed of.<sup>197</sup>

### Passing of a Bill (Third Reading)

When all the clauses and Schedules, if any, of the Bill have been considered and voted upon by the House, the member in-charge of the Bill may move that the Bill be passed.<sup>198</sup>

On an occasion, when the Minister of Home Affairs did not move the motion that the Government of Union Territories (Amendment) Bill, 1977, as amended, be passed, some procedural points were raised. The Vice-Chairman closed the matter with reference to rule 71 read with rule 126 observing, “There is nothing in our rules which empowers the Chair to compel the member in-charge to move the passing motion. As the member in-charge is not moving the motion, nothing further can be done.” Another Bill, the Delhi Administration (Amendment) Bill, 1977, taken thereafter was also amended and the Minister did not move the next motion in respect of that Bill as well.<sup>199</sup> Both the Bills lapsed on the dissolution of the Lok Sabha.

An objection may be taken to the moving of the motion that the Bill as amended, be passed on the same day on which the consideration of the Bill is concluded.<sup>200</sup> However, the practice normally is that the motion is moved on the same day.

No amendments except formal, verbal or consequential upon an amendment made by the House can be moved to the motion that the Bill be passed.<sup>201</sup>

The discussion on the motion “that the Bill (or the Bill as amended) be passed” is confined to the submission of arguments either in support of or for the rejection of the Bill and in making his speech a member should not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character.<sup>202</sup>

During the third reading of the Essential Commodities (Amendment) Bill, 1957, a member made some suggestions for implementing the provisions of the Bill. Another member raising a point of order, submitted that according to rule 96 (old rule) of the Rules of Procedure, at the third reading a member should confine himself to the submission of arguments either in support of the Bill or for rejection of the Bill.

The Deputy Chairman said:

They were neither. He made suggestions for implementation... The rule says that in support of the Bill or in opposition to the Bill you can make some remarks, but the remarks that you made were neither. You made some suggestions regarding its implementation.<sup>203</sup>

### **Correction of patent errors**

After a Bill is passed by the House, the Chairman is empowered to correct patent errors and make such other changes in the Bill as are consequential on the amendments adopted by the House.<sup>204</sup>

On an occasion, the Chairman informed that he had corrected the Enacting Formula of two Bills, namely, the Muslim Wakf Bill and the Children Bill, for the sake of uniformity. When a member asked whether this could be done except by an amendment, the Chairman observed that he had the necessary powers to correct patent errors.<sup>205</sup>

Before the commencement of the general discussion on the Budget, the Minister of Finance made a statement on the floor of the House drawing attention to the printing errors in the Finance Bill, 1956, introduced by him in the Lok Sabha.<sup>206</sup>

Bills passed by the Rajya Sabha are referred to the Legislative Counsel, Ministry of Law, for scrutiny with a view to assisting the Chairman in correcting patent errors, etc. As a rule, patent errors pointed out by the Legislative Counsel and accepted by the Chairman are carried out in the Bills before they are transmitted to the Lok Sabha. Bills passed by both the Houses of Parliament and last in possession of the Rajya Sabha are invariably got scrutinised before they are presented to the President for assent. Such scrutiny is done before the assent copy of the Bill is finally printed as well as thereafter before it is signed by the Chairman.

The Whistle Blowers Protection Bill, 2011, as passed by the Lok Sabha, was laid on the Table of the Rajya Sabha on 28 December 2011. The Bill was considered and passed by the Rajya Sabha on 21 February, 2014 without any amendments. As a result, Republic Year “Sixty-second” occurring in the Enacting Formula and Calendar Year (2011) in clause 1 of the Bill continued to remain as such instead of the the “Sixty-fifth Year”and “2014” if the formal amendments had been moved by the Minister during consideration and passing of the Bill.

The Minister of State in the Ministry of Personnel, Public Grievances and Pensions, *vide* his letter dated 29 April 2014 requested the Chairman to treat the changes as patent error within the meaning of rule 108 in clause 1 and Enacting Formula of the Whistle Blowers Protection Bill, 2011. The request of the Minister of State was not acceded to by the Chairman and the Bill was submitted to the President under article 111 without changing the Repulic Year and the Calendar Year. The Whistle Blowers Protection Bill, 2011 received assent of the President on 9 May 2014 and it became Act No. 17 of 2014.<sup>207</sup>

### **Adjournment of debate on a Bill**

At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned can be moved with the consent of the Chairman.<sup>208</sup>

Further consideration of the Parliament (Prevention of Disqualification) Amendment Bill, 1974, as passed by the Lok Sabha, was adjourned on a motion moved by a member and adopted by the House.<sup>209</sup>

The Chairman may permit more than one member to oppose or speak on the motion for adjournment of debate on a Bill before putting the motion before the House. When a motion for adjournment of debate on a Bill is negatived or withdrawn, discussion on the Bill continues.

A member moved a motion that the debate on the resolution seeking disapproval of the Essential Services Maintenance Ordinance, 1968 and the related Bill be adjourned. The motion was negatived by a division.<sup>210</sup>

When the Major Port Trusts Bill, 1963, as passed by the Lok Sabha was being discussed, the matter whether the Bill should have been referred to a Joint Committee instead of a Select Committee of the Lok Sabha was raised. As important questions arose, a member moved that further discussion of the Bill be adjourned. After members expressed their views, the member withdrew the motion by leave of the House and debate on the Bill proceeded.<sup>211</sup>

If, however, the Chairman is of the opinion that a motion for the adjournment of a debate is an abuse of the rules of the House, he may either forthwith put the question thereon from the Chair or decline to propose the question.<sup>212</sup>

### **Withdrawal of a Bill**

A member in-charge of a Bill may at any stage of the Bill move for leave to withdraw the Bill and if such leave is granted, no further motion is made with reference to the Bill.<sup>213</sup> Some of the grounds on which the Bills have been permitted to be withdrawn are: the legislative proposal contained in the Bill is to be dropped, or the Government does not wish to proceed with the Bill; or the Government intends to bring up a comprehensive Bill on the subject. Some of the Bills introduced in the Rajya Sabha but were subsequently withdrawn are mentioned below with the dates of their withdrawal in brackets.

The Shipping Agents (Licensing) Bill, 1987 (11 March 1991); the Trade Unions and Industrial Disputes (Amendment) Bill, 1988 (30 May 1990); the Press and Registration of Books (Amendment) Bill, 1988 (26 March 1992); the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Bill, 1988 (28 November 1995); the Prevention of Apartheid in Sports Bill, 1988 (26 August 1995); the

Acquired Immuno Deficiency Syndrome (AIDS) Prevention Bill, 1989 (12 August 1992); the Constitution (Seventieth Amendment) Bill, 1990 (13 June 1994); the Representation of the People (Amendment) Bill, 1990 (13 June 1994); the Board for Welfare and Protection of Rights of Handicapped Bill, 1991 (22 August 1995); the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy Bill, 1991 (2 June 1995); the University Grants Commission (Amendment) Bill, 1991 (1 June 1995); the Advocates (Second Amendment) Bill, 1992 (30 March 1995); the Companies Bill, 1993 (10 September 1996); the Hire-Purchase (Amendment) Bill, 1989 (12 September 1996); the Pondicherry (Administration) Amendment Bill, 2000 (1 August 2000); the Criminal Law Amendment Bill, 1995 (7 December 2001); the Delhi University (Amendment) Bill, 2000 (13 March 2002); the Indian Post Office (Amendment) Bill, 1986 (21 March 2002); the Companies Bill, 1997 (7 May 2003); the Delegated Legislations (Amendment) Bill, 2003 (7 December 2004); the Private Security Guards and Agencies (Regulation) Bill, 1994 (24 March 2005); the Arbitration and Conciliation (Amendment) Bill, 2003 (12 August 2003); the Private Universities (Establishment and Regulation) Bill, 1995 (14 August 2007); the University Grants Commission (Amendment) Bill, 1995 (24 April 2008); the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004 (22 December 2008); the Constitution (Sixty-first Amendment) Bill, 1998 (3 December 2009); the Lotteries (Prohibition) Bill, 1999 (7 May 2010); the Administrative Tribunals (Amendment) Bill, 2006 (3 December 2010); the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment and Miscellaneous Provisions Bill, 2005 (23 March 2011); the Indian Medical Council (Amendment) Bill, 2005 (21 March 2013); the readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 (7 August 2013); the Indian Medical Council Bill, 2013 (19 August 2013); the Drugs and Cosmetics (Amendment) Bill, 2007 (29 August 2013); the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Bill, 2013 (10 December 2013); the Representation of the People (Second Amendment and Validation) Bill (18 December 2013) and the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005 (5 February 2014).

Where a Bill is under consideration of a Select or a Joint Committee, notice of a motion for the withdrawal of the Bill automatically stands referred to the Committee and after the Committee has expressed its opinion in a report to the House, the motion is set down in the list of business.<sup>214</sup>

Where a Bill has originated in and passed by the Lok Sabha and is pending before the Rajya Sabha, the member in-charge has to move a motion in the Rajya Sabha recommending to the Lok Sabha that the Lok Sabha do agree to leave being granted by the Rajya Sabha to withdraw the

Bill and after the motion is adopted by the Rajya Sabha and concurred in by the Lok Sabha, the member in-charge moves for leave to withdraw the Bill.<sup>215</sup> A message to that effect is then sent to the Lok Sabha.

On 11 May 2015 Shri Piyush Goyal, Minister of State (Independent Charge) of the Ministry of Power, Ministry of Coal, and Ministry of New and Renewable Energy moved a motion for withdrawal of the Coal Mines (Special Provisions) Bill, 2014, passed by the Lok Sabha on 12 December, 2014 and pending in the Rajya Sabha.<sup>216</sup>

A similar procedure is adopted in the Lok Sabha for the withdrawal of a Bill originated in and passed by the Rajya Sabha and pending in the Lok Sabha.<sup>217</sup> The following are some of the instances of the Rajya Sabha adopting motions of concurrence in the recommendation of the Lok Sabha for withdrawal of Bills earlier passed by the Rajya Sabha and pending before the Lok Sabha.

The Manipur State Hill People's (Administration) Regulation (Amendment) Bill, 1954; the Advocates (Amendment) Bill, 1965; the Advocates (Second Amendment) Bill, 1968; the Arms (Amendment) Bill, 1981; the Indian Medical Council (Amendment) Bill, 1992; the Multimodal Transportation of Goods Bill, 1992; the Dentists (Amendment) Bill, 1992; the Constitution (Seventy-first Amendment) Bill, 1990<sup>218</sup> and the Securities and Exchange Board of India (Amendment) Bill, 2013.

As per the established practice when a Bill is sought to be withdrawn by Government, a statement giving reasons for the withdrawal of the Bill is circulated to members by the Minister concerned in advance of the date on which the motion for withdrawal is sought to be made.<sup>219</sup>

If a motion for leave to withdraw a Bill is opposed, the Chairman may, if he thinks fit, permit the member who moves and the member who opposes the motion to make brief explanatory statements and thereafter puts the question without further debate.<sup>220</sup>

In the midst of discussion of the motion for consideration of the Lady Hardinge Medical College and Hospital Bill, 1959, the Minister of Health announced that the Government did not propose to proceed with the Bill. Members objected, on a point of order, that the Minister should have asked for leave to withdraw the Bill only after the conclusion of the discussion. Referring to rule 117(old), the Deputy Chairman permitted the Minister and the member who opposed withdrawal to make statements. Thereafter, the motion to withdraw the Bill was formally proposed by the Chair and adopted by a division.<sup>221</sup>

The Indian Telegraph (Amendment) Bill, 1995, as passed by the Lok Sabha on 16 August 1995 was laid on the Table of the Rajya Sabha on 17 August 1995. The Government proposed to bring a comprehensive Bill, namely, the Telecom Regulatory Authority Bill, 1995 and, therefore,

proposed to withdraw the Bill passed by the Lok Sabha. Some members, however, opposed the withdrawal and the motion, therefore, could not be moved.<sup>222</sup>

### **Removal of a Bill from Register of Bills**

The Secretariat maintains a Register of Bills in which Bills introduced in the House are entered. Where any of the motions in regard to various stages of a Bill originating in the Rajya Sabha is rejected by the Rajya Sabha no further motion is made with reference to that Bill and the Bill is removed from the Register of Bills pending in the Rajya Sabha. Such motions are: that leave be granted to introduce the Bill; that the Bill be referred to a Select or a Joint Committee; that the Bill be taken into consideration; that the Bill as reported by the Select or the Joint Committee be taken into consideration; and that the Bill (or, as the case may be that the Bill as amended) be passed.<sup>223</sup>A Bill pending before the Council is also removed from the Register of pending Bills in case the Bill is withdrawn<sup>224</sup> or after introduction it is held a Financial Bill falling under article 117(1).<sup>225</sup>

### **Bills other than Money Bills returned by Lok Sabha with amendments**

If a Bill other than a Money Bill passed by the Rajya Sabha and transmitted to the Lok Sabha is returned to the Rajya Sabha with amendments, it is laid on the Table of the House.<sup>226</sup> After the amended Bill has been laid on the Table, any Minister, after giving two days' notice or with the consent of the Chairman without notice, may move that the amendments be taken into consideration.<sup>227</sup>When notice of a motion for consideration of amendments is received, it is included in the list of business. If a motion that the amendments made by the Lok Sabha be taken into consideration is carried, the Chairman puts the amendments to the House, in such manner as he thinks most convenient for their consideration.<sup>228</sup>

An amendment relevant to the subject-matter of the amendment made by the Lok Sabha may be moved, but no further amendment can be moved to the Bill unless it is consequential upon, or an alternative to, an amendment made by the Lok Sabha.<sup>229</sup>

The Rajya Sabha, if it agrees to the amendment made by the Lok Sabha, sends a message to the Lok Sabha to that effect, but if it disagrees with that amendment or proposes further amendment or an alternative amendment, the Rajya Sabha returns the Bill as amended to the Lok Sabha with a message to that effect.<sup>230</sup>

If the Bill is returned to the Rajya Sabha with a message that the Lok Sabha insists on an amendment or amendments to which the Rajya Sabha has disagreed, the Houses are deemed to have finally disagreed

as to the amendment or amendments.<sup>231</sup> In such a case, the President may notify his intention to summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the Bill.<sup>232</sup> There have been three instances of a joint sitting of the two Houses being convened, namely in regard to the Dowry Prohibition Bill, 1959, the Banking Service Commission (Repeal) Bill, 1978 and the Prevention of Terrorism Bill, 2002.<sup>233</sup>

### **Bills originating in Lok Sabha and transmitted to Rajya Sabha**

When a Bill originating in the Lok Sabha has been passed by that House and is transmitted to the Rajya Sabha, the message forwarding the Bill as passed by the Lok Sabha is reported by the Secretary-General and the Bill is laid on the Table.<sup>234</sup>

Message from the Lok Sabha alone is sufficient for the Bill being taken up in the Rajya Sabha.

On 4 September 1970, when the Constitution (Twenty-fourth Amendment) Bill, 1970, was about to be moved by the Prime Minister, on a point of order, a member said that it was not clear that the Bill had been passed by the Lok Sabha with the requisite majority as laid down by the Constitution since the Speaker had first said that it had got 336 votes, then revised it to 331 and later said that he was still examining as to exactly how many votes had been secured in favour of the Bill. As such, as long as the matter was under examination it could not be deemed to have been passed by the Lok Sabha and, therefore, it could not be taken up in the Rajya Sabha. There was a lot of discussion on this point after which the Chairman ruled:

I am not accepting this point. I overrule this point of order. I have received a message from the Lok Sabha that the Bill has been passed by the Lok Sabha. That is enough for me... I understand that the Speaker has said that the result would not be affected by it.<sup>235</sup>

Once the message received from the Lok Sabha is reported by the Secretary-General as the Bill is laid on the Table, copies of the Bill as passed by the Lok Sabha are circulated to members of the Rajya Sabha. If the message is received while the Rajya Sabha is not in session the message is published in the Parliamentary Bulletin Part-II.<sup>236</sup> Before such a Bill is passed by the Lok Sabha it may adopt a motion referring the Bill to a Joint Committee of the Houses and recommending to the Rajya Sabha to join in that Committee. The message from the Lok Sabha to that effect is reported to the House by the Secretary-General. Subsequently the Minister in-charge of the Bill may move, after due notice, a motion concurring in the recommendation of the Lok Sabha and resolving at the same time that such and such members of the Rajya Sabha be nominated to serve on the Joint Committee.

At any time after the Bill as passed by the Lok Sabha has been laid on the Table, the Minister concerned may give notice of his intention to move that the Bill be taken into consideration.<sup>237</sup> Unless the Chairman otherwise directs, the motion is not included in the list of business earlier than two days from the receipt of the notice.<sup>238</sup> The general practice is that whenever in case of urgency a Minister desires to take up the Bill earlier than two days, he sends a communication to the Chairman requesting for the waiver of two days' notice period. The Chairman considers each case on merit and directs accordingly.<sup>239</sup>

The message in respect of the Assam Reorganisation (Meghalaya) Bill, 1969, as passed by the Lok Sabha, was reported on 24 December 1969 and the Bill was taken up for consideration immediately after formally adopting a motion for suspension of rule 123.<sup>240</sup>

When the Companies (Amendment) Bill, 1977, as passed by the Lok Sabha on 14 December 1977, was to be taken up on 15 December, 1977, members raised an objection on the ground that two days' notice had not been given. The Deputy Chairman observed that it was in order since the Chairman had agreed to include the Bill in the list of business earlier than two days.<sup>241</sup>

When objection was taken for consideration of the Muslim Women (Protection of Rights on Divorce) Bill, 1986, which was passed by the Lok Sabha on 6 May 1986 and being taken up on 8 May 1986, the Chairman observed that he had the authority to waive the notice and he did it in pursuance of the recommendation of the Business Advisory Committee.<sup>242</sup>

Members objected to take up for consideration on 16 December 1987, a very bulky Money Bill—the Direct Tax Laws (Amendment) Bill, 1987, as passed by the Lok Sabha, on 15 December 1987, as they did not get adequate time. The Deputy Chairman observed that in future, whenever important Bills especially of a nature of the above Bill were to be listed for consideration, it should be ensured that members got adequate time to go through the provisions so that "the deliberations of the House become meaningful".<sup>243</sup>

On the day the motion is set down in the list of business, the Minister moves that the Bill as passed by the Lok Sabha be taken into consideration. On that day, or on any subsequent day to which the discussion is postponed, the principles of the Bill and its general provisions are discussed but the details of the Bill are not discussed further than is necessary to explain its principles.<sup>244</sup>

If the Bill has not already been referred to a Joint Committee of the Houses, any member may move an amendment at this stage that the Bill be referred to a Select Committee. If the amendment is carried, the Bill

stands referred to the Select Committee and undergoes the same process in the Committee as any other Bill introduced in the Rajya Sabha and referred to a Select Committee.<sup>245</sup> The following Bills introduced in the Lok Sabha and passed by that House were referred to Select Committees of the Rajya Sabha:

The Major Port Trust Bill, 1963; the Banking Laws (Amendment) Bill, 1968; the Chit Funds Bill, 1982; the Patents (Amendment) Bill, 1995; the Trade Marks Bill, 1995; the Prevention of Money-Laundering Bill, 1999; the Commercial Division of High Courts Bill, 2009; the Wakf (Amendment) Bill, 2010; the Prevention of Torture Bill, 2010 and the Lokpal and Lokayuktas Bill, 2011.

If the motion that the Bill be taken into consideration is carried, the Bill is taken into consideration clause-by-clause. The procedure regarding consideration of the amendments and passing of the Bill is the same as provided in the rules relating to Bills originating in the Rajya Sabha as explained above.<sup>246</sup> If the Bill is passed without any amendment, a message is sent to the Lok Sabha intimating that the Rajya Sabha has agreed to the Bill without any amendment.<sup>247</sup> If the Bill is passed with amendments, the Bill is returned with a message asking the concurrence of the Lok Sabha to the amendments, (including purely consequential or formal amendments) adopted by the Rajya Sabha.<sup>248</sup> The amendments adopted by the Rajya Sabha are incorporated in the copy of the Bill returned to the Lok Sabha along with the message. Some of the important Bills which, as passed by the Lok Sabha were amended by the Rajya Sabha are:

The Code of Criminal Procedure (Amendment) Bill, 1990; the Commissions of Inquiry (Amendment) Bill, 1990; the Prasar Bharati (Broadcasting Corporation of India) Bill, 1990; the Madhya Pradesh Reorganisation Bill, 2000; the Uttar Pradesh Reorganisation Bill, 2000; the Bihar Reorganisation Bill, 2000;<sup>249</sup> the Academy of Scientific and Innovative Research Bill, 2011; the Constitution (One hundred and Eighteenth Amendment) Bill, 2012; the National Highways Authority of India (Amendment) Bill, 2013; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2013; the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013 and the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2014.

If the Lok Sabha disagrees with the amendments made by the Rajya Sabha or with any of them, or agrees to any of the amendments made by the Rajya Sabha with further amendments or proposes further amendments in place of the amendments made by the Rajya Sabha, the Bill as further amended is laid on the Table on receipt from the Lok Sabha.<sup>250</sup> Thereafter, any Minister after giving two days' notice, or with the consent of the

Chairman without giving notice, may move that the amendments be taken into consideration.<sup>251</sup>

If the motion that the amendments be taken into consideration is carried, the Chairman puts the amendments to the House for consideration, in such manner as he thinks most convenient.<sup>252</sup> Amendments relevant to the subject-matter of the amendments made by the Lok Sabha may be moved, but no further amendment can be moved to the Bill unless it is consequential upon, or an alternative to, an amendment made by the Lok Sabha.<sup>253</sup> The Rajya Sabha may either agree to the Bill as originally passed by the Lok Sabha or as further amended by the Lok Sabha, as the case may be, or may return the Bill with a message that it insists on the amendment or amendments to which the Lok Sabha has disagreed.<sup>254</sup> In the latter case the Houses are deemed to have finally disagreed as to the amendments.<sup>255</sup>

When any of the following motions moved in the Rajya Sabha with reference to a Bill originating in the Lok Sabha and transmitted to the Rajya Sabha is negatived, the Bill is deemed to have been rejected by the Rajya Sabha: (i) that the Bill be referred to a Select Committee of the Rajya Sabha; (ii) that the Bill be taken into consideration; (iii) that the Bill as reported by the Select Committee of the Rajya Sabha be taken into consideration; or (iv) that the Bill (or, as the case may be) as amended, be passed.<sup>256</sup> There have been occasions when the motion for consideration of a Bill passed by the Lok Sabha was negatived by the Rajya Sabha. The Banking Service Commission (Repeal) Bill, 1977, as passed by the Lok Sabha on 5 December 1977, was negatived by the Rajya Sabha. Similarly, the Prevention of Terrorism Bill, 2002, as passed by the Lok Sabha on 18 March 2002, was negatived by the Rajya Sabha on 21 March 2002. In both the cases, a joint sitting of the Houses was summoned to consider the Bills.<sup>257</sup>

### **Assent to Bills**

After a Bill is passed by both the Houses of Parliament and is in possession of the Rajya Sabha, a copy thereof is signed by the Chairman, and presented to the President for his assent.<sup>258</sup> Two assent copies are endorsed by the Chairman, or by the Deputy Chairman, if he is performing the duties of the Chairman, with a certificate to the effect that the Bill has been passed by the Houses of Parliament. One copy, after assent by the President is received in the Secretariat and the other one is retained in the Ministry of Law and Justice through which the Bill is presented to the President for assent. In the absence of the Chairman from New Delhi, the Secretary-General may authenticate the Bill for the Chairman, (or for the Deputy Chairman when he is performing the duties of the Chairman) in case of urgency.<sup>259</sup>

The Bill authenticated by the Secretary-General in the absence of the Chairman was the Manipur Panchayati Raj Bill, 1994, on 12 April 1994. The Iron Ore Mines Labour Welfare Cess Bill, 1961, the Institutes of Technology Bill, 1961 and the Yoga Undertakings (Taking over of Management) Bill, 1977, were also authenticated by the Secretary-General for the Deputy Chairman.

When a Bill is presented to the President, he has option to declare, either (a) that he assents to the Bill, or (b) that he withholds assent thereof,<sup>260</sup> and (c) he may also return the Bill, except a Money Bill, to the Houses with his recommendation for reconsideration of the Bill or any specified provisions thereof and in particular introduction of any amendment that he may mention in his message.<sup>261</sup> In the first instance, the Bill becomes law. In the second instance, the Bill is vetoed and cannot become law. In the third instance, if the Bill is again passed by the Houses with or without amendment and presented to the President, he shall not withhold assent therefrom.<sup>262</sup>

*(a) Assent to Bill*

The assent is given by the President in this form:

“I assent to this Bill.....President.”

If for any reason, the functions of the President are being discharged by the Vice-President or the Vice-President is acting as the President or the Chief Justice is discharging the functions of the President, necessary changes are made in the word “President” in the endorsement.

In 1961, twenty-three Bills, in 1965 one Bill and in 1982 three Bills were signed by the Deputy Chairman and assented to by the Vice-President discharging the functions of President; in 1977, eight Bills were signed by the Deputy Chairman and assented to by the Vice-President acting as the President,<sup>263</sup> in 1969, six Bills were signed by the Deputy Chairman and assented to by Shri M. Hidayatullah (Chief Justice of India) discharging the functions of the President.

*(b) Withholding of assent*

The assent is withheld by the President in this form:

“I withhold assent to this Bill... President.”

The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1991, as passed by the Houses of Parliament, was submitted to the President for assent by the Secretariat. The Bill was received back in the Secretariat with the President’s endorsement withholding his assent, through the Secretary, Ministry of Law and Justice.<sup>264</sup> The Deputy Chairman informed the Rajya Sabha regarding withholding of the assent accordingly.<sup>265</sup>

In the Lok Sabha the PEPSU Appropriation Bill, 1954 was returned to the Lok Sabha due to revocation of the President's Proclamation in respect of that State before the Bill could be submitted to the President for assent. The Speaker made an announcement in the matter in the Lok Sabha.<sup>266</sup>

### **Return of a non-Money Bill for reconsideration**

When a Bill which has been passed by the Houses of Parliament is returned by the President for reconsideration, the point or points referred for reconsideration are required to be put before the House by the Chairman and discussed and voted upon in the same manner as amendments to a Bill, or in such other way as the Chairman may consider most convenient for their consideration by the House.<sup>267</sup>

The Indian Post Office (Amendment) Bill, 1986, as passed by the Houses of Parliament was submitted to the President on 19 December 1986. The President returned the Bill to the Rajya Sabha for reconsideration, especially clause 16 thereof (which, *inter alia*, sought to give power to the Central and State Governments or their authorised officers to intercept or detain postal articles on certain grounds) on 7 January 1990. As the House was not in session, the message of the President was published in the Bulletin.<sup>268</sup> The Bill, as returned, was laid on the Table of the Rajya Sabha by the Secretary-General on 12 March 1990 when the House reassembled. A copy of the President's message was also forwarded to the Lok Sabha Secretariat for information.<sup>269</sup> Since then the Bill continued to be laid on the Table of the House without being taken up for reconsideration, till it was withdrawn on 21 March 2002.

In this context, a question arose whether the Bill had lapsed on the dissolution of the Ninth Lok Sabha while the Bill was pending before the President for assent and also subsequent to its return by the President to the Rajya Sabha and pending there since then. The matter was, therefore, referred to the Ministry of Law and Justice which opined as follows:

The circumstances in which a Bill lapses are indicated in clause (5) of article 107 of the Constitution. Article 107 does not deal with a Bill which has been referred to the President for his assent. Accordingly, a Bill which is pending for consideration of the President does not lapse even if the Lok Sabha is dissolved after the Bill is referred to the President for his assent. This view is supported by D.D. Basu in his Commentary on the Constitution of India (Vol. G., 1983, p. 38) drawing on the Supreme Court decision in *Purushothaman Nambudiri v. State of Kerala* (1962 Supp.) (1) SCR 753 and also by M.N. Kaul and S.L. Shakdher in *Practice and Procedure of Parliament* (1991), p. 176. Thus, the dissolution of Lok Sabha will not result in lapse of a Bill which is pending assent of the President.

After the President returns a Bill in pursuance of proviso to article 111 of the Constitution for reconsideration of the Houses of Parliament, the Bill is required to be considered *de novo* by both the Houses. As indicated in the note of the Rajya Sabha Secretariat, the Indian Post Office (Amendment) Bill, 1986 is pending in the Rajya Sabha. Even applying the principle contained in clause (4) of article 107 which provides that a Bill pending in the Council of States which has not been passed by the House of the People, shall not lapse on dissolution of the House of the People, the present Bill cannot be said to have lapsed. Therefore, in any view of the matter, the Bill under consideration which is now pending in the Rajya Sabha cannot be said to have lapsed on the dissolution of the Ninth Lok Sabha.<sup>270</sup>

On another occasion, the Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed by the Houses of Parliament, was submitted to the President for his assent on 25 May 2006. The Bill was returned by the President, in pursuance of the provisions of article 111, with a message for reconsideration of the Bill, which was published in the Parliamentary Bulletin Part-II, dated 31 May 2006. The Bill as returned by the President was laid on the Table of the House on 25 July 2006. The Bill was reconsidered and passed again by the Rajya Sabha on 27 July 2006. The Bill as passed by the Rajya Sabha was reconsidered and passed by the Lok Sabha on 31 July 2006. The Bill was assented to by the President on 18 August 2006 and became Act No. 31 of 2006.

In the case of a Bill seeking to amend the Constitution within the meaning of article 368, however, the President has no option but to accord his assent to the Bill passed by the Houses by the requisite special majority.<sup>271</sup>

There is no time-limit laid down in article 111 in respect of the assent to be given or assent to be withheld or return of the Bill for reconsideration by the President. There have been instances when the President's assent was received on the same day when the Houses passed the Bill. For instance, the Constitution (Seventy-fifth Amendment) Bill, 1991, was finally passed by the Rajya Sabha on 12 March 1991 and it received the assent of the President on the same day. Similarly, the Cancellation of General Elections in Punjab Bill, 1991, was finally passed by the Rajya Sabha on 17 September 1991 and it received the assent of the President on the same day.

An assented copy of each Bill is laid on the Table by the Secretary-General. In the case of a Bill to which assent is obtained by the Lok Sabha Secretariat, the Bill as assented to by the President is authenticated by the Secretary-General of that House and supplied to the Rajya Sabha Secretariat for being laid on the Table. A copy of the Bill duly authenticated by the Secretary-General, Rajya Sabha, is similarly supplied to the Lok Sabha Secretariat when the assent is obtained by the Rajya Sabha Secretariat.

## **Money Bills and Financial Bills**

Under the Constitution, the Bills concerning public finance can be divided into three categories:

- (a) Money Bills proper *i.e.*, Bills exclusively dealing with matters mentioned in all or any of the clauses of article 110.
- (b) Other financial Bills dealing with any of the matters specified in clauses (a) to (f) of article 110 and also other matters.
- (c) Bills other than those falling under (a) and (b) but involving expenditure from the Consolidated Fund of India.

Money Bills are defined in article 110. Other Financial Bills falling under (b) and (c) are covered by article 117, clauses (1) and (3) thereof respectively.

### *Money Bills*

#### *Definition of a Money Bill*

A Bill is deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely: (a) the imposition, abolition, remission, alteration or regulation of any tax; (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India; (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund; (d) the appropriation of moneys out of the Consolidated Fund of India; (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure; (f) 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 (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).<sup>272</sup> Accordingly, if a Bill which contains all or any of these matters specified in sub-clauses (a) to (f) contains also other matters, the question whether such a Bill is a Money Bill or not will depend on whether such other matters are incidental to any of the matters specified in sub-clauses (a) to (f). However, a Bill is not deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.<sup>273</sup>

### *Certification of a Money Bill*

If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker thereon is final.<sup>274</sup> Whenever a Money Bill is transmitted to the Rajya Sabha, a certificate of the Speaker signed by him that it is a Money Bill is endorsed.<sup>275</sup> The certificate is in this form: "I hereby certify that this is a Money Bill within the meaning of article 110 of the Constitution of India."

When the House was about to take up the Indian Tariff (Second Amendment) Bill, 1952, as passed by the Lok Sabha, a point was raised about the Bill having been certified as a Money Bill. The member contended that it should be open to the Rajya Sabha (Council of States) to recommend to the Speaker that a particular Bill which had come to it was not a Money Bill within the meaning of article 110. The Leader of the House, *inter alia*, observed, "We cannot in this House take a decision which should make the decision of the Speaker of the House of the People on this question nugatory altogether... "When we receive that certificate from the Speaker, the Council has no jurisdiction to reopen the question." The Chairman remarked, "If you begin to say that it is not 'only' a Money Bill there is nothing only in this world. Everything has a bearing on everything else. You can never say that the financial part of it is not related to the political or industrial or other aspects." He closed the discussion by stating that it was a Money Bill and the House had to consider the question whether it was prepared to make any recommendations on it. That was all that was open to the House to do.<sup>276</sup>

In 1953, a controversy arose between the two Houses on the question of certification of the Indian Income-Tax (Amendment) Bill, 1952, as a Money Bill. The Chairman made the following observations:

Article 110(1) states what a Money Bill is. Article 110(2) states what a Money Bill is not. Article 110(3) says that, if a doubt arises, the decision taken by the Speaker of the House shall be final. This doubt may arise in different ways: first in the House of the People when the Bill is initiated, the question may be raised, "Is it a Money Bill?" Or, when a Bill is initiated in the Council of States a doubt may arise whether it is a Money Bill, and then the matter will have to be referred to the Speaker. Or, a doubt may arise within the Speaker's mind itself, as now we are informed that a doubt had arisen in his mind, and then he decided that it was a Money Bill. The relevant article which governs this point is article 110(4). When a Bill is transmitted to the Council, it is transmitted with a certificate by the Speaker who says that it is a Money Bill. In this particular matter, we are generally governed by the procedure in the British Parliament. There, it is put down in section 3 of the Parliament Act that a Money Bill, when it is sent up to

the House of Lords, must be endorsed with the Speaker's certificate that it is a Money Bill. Such a certificate is conclusive for all purposes and is not to be questioned in any court of law. That is how the procedure is there, which governs us.<sup>277</sup>

The matter was eventually resolved when the Prime Minister observed that:

...the Speaker's authority is final in declaring that a Bill is a Money Bill. When the Speaker gives his certificate to this effect, this cannot be challenged. The Speaker has no obligation to consult anyone in coming to a decision or in giving his certificate.<sup>278</sup>

#### **Special procedure in respect of a Money Bill**

A Money Bill cannot be introduced in the Rajya Sabha.<sup>279</sup> After a Money Bill is passed by the Lok Sabha it is transmitted to the Rajya Sabha for its recommendations. A Money Bill passed by the Lok Sabha and transmitted to the Rajya Sabha is, as soon as may be, laid on the Table by the Secretary-General.<sup>280</sup> After the motion that the Bill be taken into consideration has been carried, the Bill is taken up for consideration clause-by-clause. At that stage amendments to be recommended to the Lok Sabha are moved.<sup>281</sup> After the Bill has been considered clause-by-clause and the amendments, if any, have been disposed of, the member in-charge of the Bill moves that the Bill be returned.<sup>282</sup> When the motion that the Bill be returned has been carried, the Bill is returned to the Lok Sabha in the case where the Rajya Sabha does not make any recommendations, with a message that the Rajya Sabha has no recommendations to make to the Lok Sabha in regard to the Bill, and in the case where any amendments have been recommended by the Rajya Sabha, with a message intimating to the Lok Sabha the amendments so recommended.<sup>283</sup> The Bill is required to be returned to the Lok Sabha with the recommendations, if any, within a period of fourteen days from the date of receipt of the Bill.<sup>284</sup>

The Lok Sabha may thereupon either accept or reject all or any of the recommendations of the Rajya Sabha.<sup>285</sup> If the Lok Sabha accepts any of the recommendations of the Rajya Sabha, the Money Bill is deemed to have been passed by both the Houses with the amendments recommended by the Rajya Sabha and accepted by the Lok Sabha.<sup>286</sup> If the Lok Sabha does not accept any of the recommendations of the Rajya Sabha, the Money Bill is deemed to have been passed by both the Houses in the form in which it was passed by the Lok Sabha without any of the amendments recommended by the Rajya Sabha.<sup>287</sup>

There have been a number of instances when Money Bills were returned by the Rajya Sabha with the recommendations and the recommendations

made by the Rajya Sabha were accepted by the Lok Sabha. The following are such instances:

In the case of the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, the Rajya Sabha recommended addition of a clause repealing an Ordinance on the Bill.<sup>288</sup>

In the case of the Union Duties of Excise (Distribution) Bill, 1957, and the Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill, 1957, the Rajya Sabha recommended an amendment in the Long Title of the Bills to make a reference to the recommendations of the Finance Commission.<sup>289</sup>

In the Income-Tax Bill, 1961, the Rajya Sabha recommended amendments in clauses 13, 88 and 288 of the Bill.<sup>290</sup>

In the Appropriation (Railways) Bill, 1985, the Appropriation (Railways) No. 2 Bill, 1985, the Appropriation Bill, 1985, the Appropriation (No. 2) Bill, 1985, and the Punjab Appropriation Bill, 1985, the Rajya Sabha recommended an amendment in the Republic Year *i.e.*, from thirty-fifth to thirty-sixth.<sup>291</sup>

There have also been instances when Money Bills were returned by the Rajya Sabha with the recommendations and the recommendations made by the Rajya Sabha were not accepted by the Lok Sabha. The two instances are:

In the Finance (No. 2) Bill, 1977, the Rajya Sabha had recommended amendments in five clauses and a Schedule of the Bill.<sup>292</sup>

In the Finance Bill, 1978, the Rajya Sabha had recommended an amendment in clause 36 of the Bill.<sup>293</sup>

A message is received from the Lok Sabha intimating its decision in regard to the amendments recommended by the Rajya Sabha and the message is reported to the House.<sup>294</sup>

If the Rajya Sabha does not return the Bill within the prescribed period of fourteen days, the Bill is deemed to have been passed by both Houses of Parliament at the expiry of the period in the form in which it was passed by the Lok Sabha.<sup>295</sup> The period of fourteen days is computed from the date of receipt of the Bill in the Rajya Sabha Secretariat and not from the date on which it is laid on the Table of the Rajya Sabha.<sup>296</sup> As the General Clauses Act, 1897 applies for the interpretation of the Constitution,<sup>297</sup> the said period of fourteen days is computed in accordance with section 9(1) of that Act. Hence the date of receipt of a Money Bill by the Rajya Sabha Secretariat is excluded. Generally, a Money Bill is transmitted

by the Lok Sabha to the Rajya Sabha as soon as it is passed by that House, unless the Speaker directs otherwise.

The Indian Tariff (Amendment) Bill, 1955, a Money Bill, was passed by the Lok Sabha when the Rajya Sabha was not in session but was due to assemble later. The Speaker informed the Lok Sabha that according to legal interpretation, even when the Rajya Sabha was not in session, a Bill could be sent to the Secretary of the Rajya Sabha and it would be deemed to have been received by the Rajya Sabha. He, however, directed the Secretary of the Lok Sabha not to transmit the Bill to the Rajya Sabha immediately, but a little later so that the period of fourteen days did not terminate before the commencement of the session of the Rajya Sabha. This would enable the Rajya Sabha to have an opportunity to discuss the Bill. Accordingly, the Bill which was passed by the Lok Sabha on 26 July 1955 was transmitted to the Rajya Sabha when it reassembled on 16 August 1955.<sup>298</sup>

Similarly, the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, a Money Bill, which was passed by the Lok Sabha on 29 March 1956 when the Rajya Sabha was not in session was transmitted to the Rajya Sabha when it reassembled on 23 April 1956.<sup>299</sup>

There have been a number of instances when the Rajya Sabha could not return the Money Bills to the Lok Sabha within the stipulated period and so the concerned Bills were deemed to have been passed by the Houses of Parliament, thereafter.

The Appropriation (Railways) Nos. 4 and 5 Bills, 1978, as passed by the Lok Sabha, were received in the Secretariat on 21 December 1978 and the Appropriation (No. 5) Bill, 1978, was received on 22 December 1978. The Rajya Sabha adjourned *sine die* on 26 December 1978 without taking up the Bills for consideration. Hence the first two Bills were deemed to have been passed on 5 January 1979 and the third Bill on 6 January 1979.

The Contingency Fund of India (Amendment) Bill, 1994, the Appropriation (No. 6) Bill, 1994, and the Appropriation (Railways) No. 6 Bill, 1994, as passed by the Lok Sabha, were received in the Secretariat respectively on 19, 20 and 22 December 1994. The Bills could not be taken up for consideration before the Rajya Sabha adjourned *sine die* on 23 December 1994. Hence the Bills were deemed to have been passed by the Houses after the expiry of fourteen days from those dates.

The Appropriation (No. 5) Bill, 1995, as passed by the Lok Sabha was received in the Secretariat on 7 December 1995. In view of the series of adjournments of the House, the Bill could not be taken up till 21 December 1995. The Bill was, however, not listed on

22 December 1995 when the House adjourned *sine die*. This is thus the only case when the prescribed period of fourteen days for return of a Money Bill by the Rajya Sabha expired while the House was still in session. Ten Bills relating to the Union Budget, Uttar Pradesh and Jammu & Kashmir Budgets for 1996-97, as passed by the Lok Sabha, were received in the Secretariat on 12 March 1996; messages in respect of six of them were reported and Bills laid on the Table, the same day.<sup>300</sup> Messages in respect of the other four Bills were circulated through a Bulletin<sup>301</sup> since the House adjourned *sine die* that day before the scheduled time. The Bills were, therefore, deemed to have been passed by both Houses of Parliament on 27 March 1996.

The Appropriation (No. 2) Bill, 1998<sup>302</sup> (received in the Secretariat on 12 June 1998) could not be considered by the Rajya Sabha as the House adjourned on the same day till 3 July 1998. The Appropriation (Railways) Vote on Account Bill, 1999; the Appropriation (Railways) No. 2 Bill, 1999 and the Appropriation (Railways) Bill, 1999<sup>303</sup> (received in the Rajya Sabha on 15 March 1999); the Appropriation (Vote on Account) Bill, 1999; the Appropriation Bill, 1999 and the Appropriation (No. 2) Bill, 1999<sup>304</sup> (received on 18 March 1999) could also not be taken up for consideration following adjournment of Rajya Sabha on 19 March 1999 till 12 April 1999. Similarly, the Cotton Textiles Cess (Repeal) Bill, 2000<sup>305</sup> and the Direct Tax Laws (Miscellaneous) Repeal Bill, 2000<sup>306</sup> as passed by the Lok Sabha were received in the Secretariat on 8 and 11 May 2000, respectively. The Bills could not come up for consideration before the Rajya Sabha adjourned *sine die* on 17 May 2000. All these Bills were deemed to have been passed by the Houses after the expiry of fourteen days from those dates. The Appropriation (No. 4) Bill, 2002 & the Appropriation (No. 5) Bill, 2002 and the Appropriation (Railways) No. 3 Bill, 2002<sup>307</sup> & the Appropriation (Railways) No. 4 Bill 2002<sup>308</sup> were received as passed by the Lok Sabha on 1 and 12 August 2002, respectively. These Bills could also not come up for consideration before the Rajya Sabha adjourned *sine die* on 12 August 2002. The Supreme Court (Number of Judges) Amendment Bill, 2008 was passed by the Lok Sabha on 22 December 2008. Since the House was adjourned *sine die* on 23 December 2008, the Bill could not be passed by the Rajya Sabha and was considered deemed to have been passed by both Houses after expiry of fourteen days.<sup>309</sup>

After a Money Bill is passed, it is presented to the President for assent by the Lok Sabha Secretariat with a certificate of the Speaker endorsed on the Bill that it is a Money Bill<sup>310</sup> within the meaning of article 110 of the Constitution. In the case of a Money Bill which is deemed to have been passed, in addition, the Bill also contains an endorsement that the concerned Bill “is deemed to have been passed by the Houses of Parliament under clause (5) of article 109 of the Constitution of India.”<sup>311</sup> In the case of a Money Bill pertaining to a State under the President’s Rule,

however, the reference to article 110 is omitted from the Speaker's certificate.

A Money Bill cannot be referred to a Joint Committee of the Houses.

The Incometax Bill, 1961, was referred to a Select Committee of the Lok Sabha. In the Rajya Sabha when a point was raised in this regard, the Chairman explained that only Financial Bills could be referred to a Joint Committee and not Money Bills. As the Bill had been certified to be a Money Bill by the Speaker, the question of referring it to a Joint Committee did not arise.<sup>312</sup>

#### **Objection to introduction of a Money Bill in Rajya Sabha**

On a Bill being introduced in the Rajya Sabha or at a subsequent stage if an objection is taken that a Bill is a Money Bill within the meaning of article 110 and should not be proceeded within the Rajya Sabha, the Chairman, if he holds the objection valid, directs that further proceedings in connection with the Bill be terminated.<sup>313</sup> If the Chairman has any doubt in regard to the validity of the objection, he has to refer the matter to the Speaker whose decision on the question is final in accordance with clause (3) of article 110 of the Constitution.<sup>314</sup>

When a member sought leave to introduce the Pensions Bill, 1977, under which provision was made, *inter alia*, for grant of pensionary and other benefits to retired Central Government employees, the Minister of State in the Ministry of Finance opposed the motion on the ground that the Bill was a Money Bill. After some discussion, the decision on the motion was deferred till the next session.<sup>315</sup> At the resumed discussion next session, the Vice-Chairman stated that since the matter was not free from doubt, the Bill should be referred to the Speaker under rule 186(8) for decision.<sup>316</sup> It was accordingly referred.<sup>317</sup> The Speaker held that the Bill in question came within the scope of article 110(1)(e) read with article 110(1)(g) of the Constitution and was, therefore, a Money Bill. The Deputy Chairman announced the decision of the Speaker accordingly and ruled that the Bill could not be introduced in the Rajya Sabha.<sup>318</sup>

#### ***Financial Bills***

Article 117 makes special provisions as to Financial Bills. They may broadly be divided into two categories: (i) Bills which make provisions for any of the matters contained in sub-clauses (a) to (f) of clause (1) of article 110 but do not consist exclusively of such matters but consist of other matters in addition, e.g. a Bill which contains a taxation clause but does not solely deal with taxation. Such Bills come under clause (1) of article 117; (ii) Ordinary Bills, which, if enacted and brought into operation, would

involve expenditure from the Consolidated Fund of India. Such Bills come under clause (3) of article 117. For facility of reference, the former may be called Financial Bills of category 'A' and the latter, Financial Bills of category 'B'.

#### *Financial Bills of category 'A'*

Such Bills have two features in common with Money Bills, *viz.*, *i.e.*, (i) they cannot be introduced in the Rajya Sabha, and (ii) they cannot be introduced except on the recommendation of the President.<sup>319</sup> But, not being Money Bills, the provisions of clauses (2) to (5) of article 109 do not apply to such Bills, so that the Rajya Sabha has full power to reject or amend such Bills as it has in the case of non-financial Bills. Such Bills have to be passed in the Rajya Sabha like ordinary Bills and in case of final disagreement between the two Houses over such a Bill, the provision of a joint sitting contained in article 108 is attracted.

Under article 117(1), an amendment making provision, for any of the matters specified in article 110(1)(a) to (f), cannot be moved except on the recommendation of the President. However, such a recommendation is not required for an amendment seeking to reduce or abolish any tax.<sup>320</sup>

A member sought to move an amendment to a clause of the Finance Act, 1961, with a view to extending the exemption available to the Government employees in respect of their gratuities under the Indian Income tax Act, 1922, to employees in the private sector also. The Minister of Finance (Shri Morarji R. Desai) pointed out that the amendment could not be moved because it was *ultra vires* in the sense that it required the prior consent of the President. Before the amendment was put to vote, a member sought the opinion of the Deputy Chairman on the point. The Deputy Chairman stated that it was not necessary. The amendment was, however, negatived.<sup>321</sup> On 1 May 1961, the Deputy Chairman clarified that when he said that the amendment did not require President's recommendation, he had in his mind article 117(1). He revised his opinion stating that under article 274(1), prior recommendation of the President was required for the moving of an amendment which varied any tax or duty in which States were interested. It could be held that the particular amendment sought to vary the income tax which was a tax in which States were interested as the net proceeds thereof were distributed to the States. Hence the amendment required President's recommendation under article 274(1).<sup>322</sup>

#### *Financial Bills of category 'B'*

Any ordinary Bill may contain, *inter alia*, provision(s) which, if passed, would involve expenditure from the Consolidated Fund of India, *i.e.*, by providing for the appointment of officers or other authorities, etc. Such a

Bill has all the incidence of an ordinary Bill, viz., it may be initiated in either House and the Rajya Sabha has full power to reject or amend it. But in view of the financial provision contained in it which involves expenditure it cannot be passed in either House of Parliament unless the President has recommended consideration of the Bill.<sup>323</sup>

The recommendation of the President in respect of a Bill as passed by the Lok Sabha attracting article 117(3) has to be obtained separately for the Rajya Sabha.

Before the consideration of the National Security Bill, 1980, as passed by the Lok Sabha, a point of order was raised regarding a separate recommendation of the President for consideration of the Bill by the Rajya Sabha. The Deputy Chairman informed that the recommendation was conveyed by the Minister in a letter addressed to the Secretary-General and observed that the letter received from the Minister concerned was sufficient proof of the fact that the recommendation was given.<sup>324</sup> A similar point was again raised after the Minister moved the motion for consideration of the Tea (Amendment) Bill, 1980, as passed by the Lok Sabha. In this case the words "as passed by the Lok Sabha", were omitted from the letter conveying the recommendation in respect of that Bill. The Deputy Chairman ruled that if the Bill was passed by the Lok Sabha the letter should say accordingly and if the Bill originated in the Rajya Sabha the date (of recommendation) should be given.<sup>325</sup> Again, at the time of consideration of four Appropriation Bills, 1981, the point regarding omission of indication of date on which the President had given recommendation was raised and the Deputy Chairman reiterated his earlier ruling and observed, "There should be two recommendations from the President: one, when the Bill is introduced in the Lok Sabha, and second, when it is to be brought to this House after the Lok Sabha has passed....Therefore, it was necessary that the date should be given when the President gave recommendation."<sup>326</sup>

On an earlier occasion, when a point of order was raised that the Special Marriage Bill, 1952, required President's recommendation under article 117(3), the Chairman, *inter alia*, observed that not every Bill that came before the House, which might involve some expenditure from the Consolidated Fund of India, came within the scope of clause (3) of article 117 and also taking into account the provision of article 255, held that it was not right for the House to stop consideration of the Bill at that stage.<sup>327</sup>

In the case of the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1991, as passed by the Lok Sabha, the President's recommendation for its consideration by the Rajya Sabha was conveyed "subject to scrutiny at the time of giving assent."<sup>328</sup> Eventually, however, the assent to the Bill was withheld.

### What are not Financial Bills

Clause (2) of article 117 is an exception to clause (1) of that article and states what are not Financial Bills within the purview of clause (1). Thus, Bills providing for certain specified matters, *i.e.*, the imposition of fines or other pecuniary penalties, the demand or payment of fees for licences or fees for services rendered, and the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes, though *prima facie* they may contain provisions which are financial in nature, are not Financial Bills for the purposes of the Constitution and as such they have no special incidence with respect to their introduction or passage in the House. Like ordinary Bills they may be introduced in either House, require no recommendation from the President and may be rejected or amended by the Rajya Sabha in the ordinary manner. But if such a Bill involves expenditure from the Consolidated Fund of India the recommendation of the President must be obtained under article 117(3) before the motion for the consideration of the Bill is made.

### Objection to introduction of a Bill under article 117(1)

If notice of a motion for leave to introduce a Bill making provision for any of the matters specified in clause (1) of article 117 of the Constitution is received, the Chairman may direct that it should not be included in the list of business.<sup>329</sup>

On a Bill being put down for introduction, a member may at that stage or at any subsequent stage take objection that the Bill is a Financial Bill within the meaning of clause (1) of Article 117 of the Constitution and should not be introduced in the Rajya Sabha.<sup>330</sup> If the Chairman holds that the Bill is a Financial Bill, he terminates discussion on the Bill forthwith and directs that it be struck off from the list of business and be removed from the Register of Pending Bills in the Rajya Sabha.<sup>331</sup>

If, however, the Chairman has any doubt in regard to the validity of the objection, he has to refer the matter to the Speaker and if there is no agreement between the Speaker and the Chairman, he has to report the matter to the House and take the sense of the House as to whether it wishes to proceed further with the Bill.<sup>332</sup>

On 2 June 1995, the Minister of Welfare moved a motion for withdrawal of the National Trust for the Welfare of Persons with Mental Retardation and Cerebral Palsy Bill, 1991, introduced in the Rajya Sabha. In the statement of reasons for the withdrawal of the Bill, the Minister stated:

Clause 19 of the Bill provides that the Trust shall not be liable to pay incometax or any other tax in respect of its income, profits

or gains derived. Under Article 117(1) of the Constitution of India read with Article 110(1) of the Constitution, this Bill will be a Financial Bill. However, it was inadvertently introduced in the Rajya Sabha. It is, therefore, being withdrawn from the Rajya Sabha and will be introduced in the Lok Sabha.<sup>333</sup>

#### **Reference of a Financial Bill to a Select/Joint Committee**

A Money Bill cannot be referred to a Joint Committee of the Houses. However, there is no such bar in respect of a Financial Bill. There have been occasions when the Rajya Sabha referred to its own Select Committees, Financial Bills which were earlier referred to Select Committees of the Lok Sabha where they were introduced.

A member moved an amendment for referring the Life Insurance Corporation Bill, 1956, to a Select Committee after the Finance Minister moved a motion for consideration of the Bill. The Finance Minister (Shri C. D. Deshmukh), rising on a point of order, said that the question of the possibility of referring the Bill to a Joint Committee was considered but in view of the proviso to rule 92 of the Rules of Procedure and Conduct of Business in the Lok Sabha, it was felt that the Life Insurance Corporation Bill could not be referred to a Joint Committee because clause 37 of the Bill attracted the provisions of Article 110 of the Constitution making it a Financial Bill. A member submitted that Article 110 of the Constitution did not say that a Financial Bill could not be referred to a Joint Committee. He would even say that the Constitution did not say that even a Money Bill as such should not be referred to a Joint Committee. So far as Financial Bills were concerned, the powers of both the Houses were the same, except that they must be introduced in the other House. The Council had a right as far as Financial Bills were concerned to disagree with the recommendations of the Lok Sabha and if there was disagreement a joint sitting could be held. The Deputy Chairman ruled:

So far as Financial Bills are concerned, this House has got as much power as the other House has for referring them to a Select Committee, and our rules also provide that, when there is no Joint Committee and the Bill has been referred to a Select Committee in the other House, this House has got power to refer it to a Select Committee of its own. There is no point of order, but, of course, the Hon'ble Finance Minister may oppose the motion, and I will put it to the House.<sup>334</sup>

In the case of the Major Port Trusts Bill, 1963, a similar point arose when the Bill was referred to a Select Committee of the Lok Sabha and not the Joint Committee of both the Houses on the ground that the Bill attracted article 117(1). Although the matter was not pursued further in view of the urgency of the Bill, the Rajya Sabha referred the Bill to its own Select Committee.<sup>335</sup>

Again, when the Banking Laws (Amendment) Bill, 1968, was also not referred to a Joint Committee but was referred by the Lok Sabha to its Select Committee, on a point, the Minister concerned stated that the Bill attracted some of the matters specified in article 110 and so was not referred to a Joint Committee. However, he conceded the right of the Rajya Sabha to refer the Bill to a Select Committee which was eventually done.<sup>336</sup>

### Bills seeking to replace Ordinances

#### *Promulgation of Ordinances*

If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.<sup>337</sup> An Ordinance so promulgated by the President has the same force and effect as an Act of Parliament, but every such Ordinance has to be laid before both Houses of Parliament and it ceases to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both the Houses, then upon the passing of the second of those resolutions. It can also be withdrawn at any time by the President.<sup>338</sup>

The President may issue an Ordinance to enforce the provisions of a Bill introduced in, and pending before a House<sup>339</sup> or a Committee<sup>340</sup> or to enforce the provisions of a Bill already passed by one House but not yet passed by the other House<sup>341</sup> or on an entirely new matter or for a temporary purpose.<sup>342</sup>

#### *Objection in the House*

Members have objected to the frequent resort to the power to issue an Ordinance by the Government, particularly on dates too close to a session of Parliament.

On 15 November 1971, for instance, members raised objection to the issue of large number of Ordinances contending, *inter alia*, that there was no necessity for levying certain taxes through Ordinances without the approval of Parliament which was going to meet soon. The Deputy Chairman observed:

As has been pointed out by the hon'ble members, this is quite a large number of Ordinances that are being placed on this Table... Of course, Ordinances are to be normally issued in abnormal or extraordinary conditions. Recourse should not be taken to this procedure of legislating, in normal conditions. It has been pointed out by the Leader of the House that if, strictly speaking, according

to the provisions of the Constitution there is no emergency, there is a near emergency, by which, I thought, he meant that even if an emergency is not proclaimed under the provision of the Constitution, the situation is emergent. And, therefore, he said that under such extraordinary circumstances it was necessary and essential for the Government to issue such Ordinances... But there is the constitutional obligation on the part of the Government that when an Ordinance is issued, Government must place a copy of the Ordinance on the Table of both the Houses as early as possible. That constitutional obligation is there.

I have said earlier also that there is constitutional provision for issuing Ordinances. It is an entirely different issue whether from the political, democratic or moral point of view it is proper or not. But, as I have said earlier, very strong feelings, very strong views have been expressed, I should say by almost all the opposition parties... I hope the strong views expressed in this House by the entire Opposition will be taken into consideration...by the Government and in future there will be no recourse at all and, if at all, very little recourse, to issue Ordinances and to make laws by this procedure.<sup>343</sup>

Again, on 17 November 1980, members raised objection to the issue of ten Ordinances. The Chairman observed, "...so far as my reaction to these Ordinances *vis-a-vis* the Government and its policy of having them passed is concerned, I have already said that I do not like Ordinance..."<sup>344</sup>

Again, when the Finance (Amendment) Ordinance, 1987, was being laid on the Table, a point of propriety of the Government issuing a fiscal Ordinance was raised. It evoked the Chairman's response as follows:

I hope these views and the propriety of the Constitution will be kept in view by the Government, and in future, recourse to issuing Ordinances will be minimal and will be as sparing as possible, especially in the case of Financial Ordinances and they will be issued only when absolutely essential and urgent.<sup>345</sup>

#### *Laying of an Ordinance*

Ordinances promulgated by the President are required to be laid before both Houses of Parliament.<sup>346</sup> Normally, Ordinances are laid on the first sitting of the House held after the promulgation of the Ordinances on which formal business is transacted. In the case of an Ordinance embodying wholly or partly or with modification the provisions of a Bill pending before

the House, a statement explaining the circumstances which had necessitated legislation by Ordinance is also required to be laid on the Table along with the Ordinance.<sup>347</sup>

Ordinances promulgated by the Governor of a State under the President's Rule are also laid on the Table in the same manner as Ordinances promulgated by the President. An Ordinance promulgated by the Governor of a State before issue of the Proclamation by the President in relation to that State can be laid before the House in case it could not be laid before the State Legislature.

The Assam Appropriation (Vote on Account) Ordinance, 1981, was promulgated by the Governor of Assam on 1 April 1981, after the prorogation of the Assembly on 31 March 1981, for the duration of four months. The Assembly thereafter sat only for a day on 29 June 1981. The next day President's Rule was imposed in that State. The session of Parliament commenced on 17 August 1981. In connection with the Assam Appropriation Bill, 1981, which was under consideration of the House, points were raised whether the Governor's Ordinance was required to be laid on the Table of the House under article 213(2)(a).<sup>348</sup> The Ordinance expired on 31 July 1981, but got a six week's life under article 213(2)(a), with effect from 29 June 1981, when the Assembly met for a day. So, the Ordinance became inoperative on 9 August 1981. There was a duty to lay the Ordinance on the Table of the Assembly on 29 June 1981 and the Assembly could have disapproved the Ordinance that day or on any subsequent day but before it could do so the President's Rule was imposed in that State. Neither was the Ordinance laid nor was any action taken in respect of it by the Assembly. The Chairman, therefore, *inter alia*, ruled, "As the duty to lay it on the Table of the Assembly had commenced and was not fulfilled there is nothing in the Constitution which substituted Parliament for this purpose. After the expiry of six weeks, no resolution disapproving the Ordinance could be moved in Parliament and the matter of laying the Ordinance on the Table of the House which began on 29 June 1981, also came to an end when a resolution disapproving it was not possible either in the Assembly or in Parliament...no purpose would have been served by laying a twice dead Ordinance on the Table of our House except to inform the hon'ble members about it. That was adequately done by providing copies of the Ordinance in the Members' Library. There was thus no breach of any constitutional provision...If the letter and spirit of article 213(2)(a) are to be followed it may be necessary to lay the Ordinance on the Table of the Assembly when it meets, not having been laid thus on 29 June 1981, but that omission will not be supplied by laying it on the Table of our House which could not have acted under article 213(2)(a) on 17 August 1981."<sup>349</sup>

### *Bill replacing Ordinance*

If the Government wants to continue the provisions of an Ordinance for a longer period or to make it permanent, a Bill to replace it is brought forward. Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the House, a statement explaining the circumstances which had necessitated legislation by Ordinance, is required to be placed before the House along with the Bill.<sup>350</sup>

On an occasion, the concerned Minister instead of laying a copy of the statement which had necessitated promulgation of the Special Protection Group Ordinance, 1995, read out the statement in the House.<sup>351</sup>

Generally, a statutory resolution disapproving an Ordinance and the related Government Bill are discussed together.<sup>352</sup> If the resolution is adopted, it would mean disapproval of the Ordinance and the Bill would automatically fall through. If the resolution is negated, the motion for consideration of the Bill is then put to vote and further stages of the Bill are proceeded with.

The resolution for the disapproval of the Code of Criminal Procedure (Amendment) Ordinance, 1991, and the related Bill were discussed on 5 August 1991, the resolution was adopted by a casting vote of the Vice-Chairman. No further proceedings on the Bill were taken up.<sup>353</sup>

The Banaras Hindu University (Amendment) Bill, 1958, to replace an Ordinance on the subject was introduced in the Lok Sabha and the Rajya Sabha met a week later on 18 August 1958, when the Ordinance was laid on the Table. Meanwhile, the Lok Sabha referred the Bill to its Select Committee. A point of privilege was raised in the Rajya Sabha on the score that the Ordinance should have been laid on the Table of the Rajya Sabha, the Rajya Sabha should have been given an opportunity to disapprove it and the Bill should have been referred to a Joint Committee. The Chairman ruled out the point stating that members would have opportunity to modify or amend the Bill when it came from the Lok Sabha and due to delay in meeting and need for quick action, the Bill was referred to a Select Committee. This, however, he clarified, should not be treated as a precedent.<sup>354</sup>

### **Private Members' Bills**

#### *Notice*

A Private Member, *i.e.*, a member other than a Minister, desiring to move for leave to introduce a Bill has to give one month's notice of his

intention, unless the Chairman allows the motion to be made at a shorter notice.<sup>355</sup> The notice is required to be accompanied by a copy of the Bill together with a Statement of Objects and Reasons. In case it is considered necessary to revise the statement, it is done under the directions of the Chairman<sup>356</sup> and in consultation with and concurrence of the concerned member. In the early fifties, a member could introduce not more than three Bills on a day allotted for Private Members' Bills. However, since 1997 as per the Chairman's Direction, a member can introduce a maximum of three Bills in a Session.<sup>357</sup> There is no bar to a Bill being introduced in the Rajya Sabha when an identical Bill is pending before the Lok Sabha.

#### *Drafting*

The primary responsibility for drafting of a Private Member's Bill is that of the member concerned. The Secretariat, however, renders all possible technical assistance and advice to members so that their Bills do not become inadmissible on technical or procedural grounds. The Bill when received, is scrutinised with reference to several points mentioned earlier in this Chapter. When a Bill has not been properly drafted by a member, he is consulted in the matter and any changes required in the Bill are made only with his approval.

#### *Precedence*

The relative precedence of notices of Bills given by Private Members is determined by draw of lots, to be held in accordance with the order made by the Chairman, on such day, not being less than fifteen days before the day with reference to which the draw of lots is held, as the Chairman may direct.<sup>358</sup> The relative precedence is in the following order, namely, (a) Bills for introduction; (b) Bills returned by the President under article 111; (c) Bills passed by the Rajya Sabha and returned by the Lok Sabha with amendments; (d) Bills passed by the Lok Sabha and transmitted to the Rajya Sabha; (e) Bills in respect of which motion for consideration has been carried; (f) Bills in respect of which a report of a Joint/Select Committee has been presented; (g) Bills which have been circulated for the purpose of eliciting opinion thereon; (h) Bills introduced and in respect of which no further motion has been made; and (i) other Bills.<sup>359</sup>

The relative precedence of Bills falling under the same clause is determined by draw of lots.<sup>360</sup> However, in the case of Bills to be introduced, they are listed in the list of business in the order in which notices in respect thereof are received and no ballot is held for the purpose. As regards Bills falling under clause (h) above, names of ten members are drawn by lot.<sup>361</sup> As per the direction of Chairman, Rajya Sabha the priority obtained in the draw of lots remains valid for the entire Session. However,

the Bill of only five members (excluding part-discussed, if any), in order of their priority, are included in the list of business for consideration out of the names of members who have secured the first ten places in the draw.<sup>362</sup> If a member has more than one Bill pending against his name, he can select one of his Bills.<sup>363</sup>

If any member whose Bill is listed for consideration and passing is absent when called by the Chair, to move his Bill for consideration he shall lose his priority and his name shall be placed at the end of the priority so drawn, on the subsequent days allotted for the purpose.<sup>364</sup>

Prior to the amendment of rule 25, the practice was that Bills introduced and in respect of which no further motions had been made or carried, were arranged in groups in the order of their introduction and the relative precedence within each group was determined by draw of lots and ten such Bills in respect of which notices of next motions were received were included in the concerned list of business. The rule was, therefore, amended on the recommendation of the Rules Committee so that instead of Bills, names of members in-charge of Bills are balloted; no member (out of ten balloted) being permitted to take up more than one Bill for consideration in the same session. In recommending this change, the Committee observed:

This (old) procedure causes lot of dissatisfaction amongst members who introduce Bills later and who have, therefore, to wait for years before their Bills see the light of the day in the House. Many a time, due to this procedure, Bills come up for consideration in the House at such a later stage that the purpose of introducing the Bills gets defeated. There have been occasions in the past when Bills have come up for discussion after a lapse of 3 to 4 years and in some cases did not come up at all, the sponsors of such Bills having retired in the meantime.....The Committee hopes and trusts that by the proposed procedure, the existing frustration amongst private members would be removed to a large extent and more and more Bills would come up for discussion in the House at the initiative of private members.<sup>365</sup>

However, as early as 1969, it was brought to the notice of the Business Advisory Committee that a large number of Private Members' Bills were pending and the practice of including all of them in the list of business did not serve any practical purpose. The Committee recommended that henceforth only the first ten Bills, in the order of priority, in respect of which notices of next motions had been received need be included in the list of business for a particular day.<sup>366</sup>

#### *Introduction*

On the day allotted for the disposal of Private Members' Bills, Bills for introduction are set down as the first item in the list of Private Members' business for that day.<sup>367</sup> In the case of a motion for leave to withdraw a Bill, the same is set down before the Bills for introduction.<sup>368</sup>

By convention the motion for introduction of a Bill is not opposed, but there are several instances where motions for introduction of Private Members' Bills were opposed and also negatived by the House.

For instance, the Constitution (Tenth Amendment) Bill, 1956 (motion for leave to introduce the Bill was negatived by a division);<sup>369</sup> two Bills regarding Salary and Allowances of Members, 1968 (motions were negatived);<sup>370</sup> the Constitution (Amendment) Bill, 1993 (to omit Article 370, the motion was negatived);<sup>371</sup> the Constitution (Amendment) Bill 1993 (to omit Article 30, the motion after opposition, was withdrawn).<sup>372</sup>

The Constitution (Amendment) Bill, 2004 (amendment to Preamble) (the Leave to introduce the Bill was not granted)<sup>373</sup>; the Customs (Amendment) Bill, 2004 (the then Minister of State for Finance opposed the introduction of the Bill on the ground that the Bill was a Money Bill and accordingly the introduction of the Bill was deferred. Finally the decision of the Speaker was communicated to the House that it was a Money Bill)<sup>374</sup>; the Constitution (Amendment) Bill, 2006 (Omission of Article 370) (Leave to introduce the Bill was not granted).<sup>375</sup>

#### *Motions after introduction*

After the introduction of a Bill, the next motion in respect thereof is not made on the same day on which the Bill is introduced. As already stated, the relative precedence of Private Members' Bills after their introduction, as regards the subsequent legislative stages, is determined by draw of lots. There is one draw of lots for the entire session. Depending on the priority secured in the draw of lots, the member in-charge may move any of the next motions in respect of his Bill. However, a member cannot take up more than one Bill for consideration in the same session.<sup>376</sup> Since only names of ten members in-charge of the Bills are drawn by lot, members, in whose names more than one Bills are pending, are requested, while notifying the result of the draw of lots of Bills, to select one of their Bills for listing for the next motions.<sup>377</sup>

There had been an occasion in the early fifties when one member moved three Bills at the same sitting. One Bill was negatived, the second one was not proceeded with for want of President's recommendation under article 117(3), and the third Bill was taken up for consideration.<sup>378</sup>

A Private Member's Bill can be discussed in the absence of the mover, if the Bill had already been moved.

On 17 August 1995, when further discussion on a Private Member's Bill was in progress, a member raised a point of order and questioned the validity of taking up a Bill for discussion in the absence of the mover of the Bill. He contended that the member in-charge of the Bill was not present to reply to the questions raised by other members and

that the Minister could speak only after the mover had replied to them. Ruling out the point of order, the Vice-Chairman gave the following ruling:

So far as the discussion on the Bill is concerned, it is not essential under the rules, for the member moving the Bill to be present in the House. Once the Bill is moved in the House and it is under discussion, it becomes the property of the House. So, the House is competent to discuss the matter further. This discussion is valid and your point of order is hereby ruled out...<sup>379</sup>

While a Private Member's Bill is under consideration, if the concerned member is absent to reply to the discussion, the motion may be put to the vote of the House after the concerned Minister has intervened in the debate in the absence of the member in-charge of the Bill.<sup>380</sup>

A Private Member's Bill originating in and passed by the other House and transmitted to the Rajya Sabha may be taken up by any Private Member of the Rajya Sabha on a day allotted for Private Members' Bills.

#### *Recommendation of the President*

In a case where a Bill sponsored by a private member requires the recommendation of the President, the member concerned has to apply to the President for such recommendation. When a request from the member is received by the Secretariat for obtaining the recommendation of the President, the letter of the member is forwarded to the Ministry concerned for necessary action. The Minister concerned communicates the orders of the President to the member under intimation to the Secretariat. When intimation regarding President's order is received by the Secretariat through the Minister concerned, it is communicated to the member and published in the Bulletin.<sup>381</sup>

Where the President's recommendation has been withheld, the Bill is not proceeded with and where it has not been obtained, the consideration of the Bill is postponed.

The Orphanages and Widows' Homes Bill, 1954, introduced by a private member did not get President's recommendation under article 117(3), for which the member had applied. The Chairman informed the House accordingly and so the Bill could not be taken up for consideration.<sup>382</sup>

A member moved a motion for consideration of the Standards of Higher Education Coordinating Bill, 1953, introduced by him. A point of order was raised that some clauses of the Bill involved expenditure from the Consolidated Fund of India and so the President's recommendation was required under article 117(3). The Deputy Chairman upheld the point of order and the member was advised to apply for President's recommendation. Till then further proceedings in respect of the Bill were stayed.<sup>383</sup>

Before the member in-charge of the Unemployment Relief Bill, 1953 moved the motion for consideration of the Bill, the Deputy Chairman stated that there was a technical objection that the Bill required the recommendation of the President. The mover stated that he had applied for it and till he got it the consideration of the Bill be postponed. The Deputy Chairman agreed and postponed the consideration of the Bill.<sup>384</sup>

In the case of a Bill for which the recommendation of the President has been withheld, the earlier practice was to remove the Bill from the Register of Pending Bills.<sup>385</sup> The current practice, however, is that such Bills are excluded from the draw of lots.<sup>386</sup>

#### *Time-limit on debate*

The General Purposes Committee in its meeting held on the 28 April 2008 decided that a Private Member's Bill taken up for consideration/discussion on a day earmarked for Private Members' business should be disposed of on that day itself. The Committee further decided that the time-limit of two hours for the discussion on Private Member's Bill prescribed in the Direction of the Chairman should be strictly adhered to.<sup>387</sup>

#### *Adjournment of debate*

When on a motion being carried, the debate on a Private Member's Bill is adjourned to the next day allotted for Private Members' Bills in the same or the next session, it is not set down for further discussion unless it has gained priority in the draw of lots.<sup>388</sup> When the debate is adjourned *sine die*, the member concerned has to give notice for resumption of the adjourned debate, if he wishes to proceed with his Bill on a subsequent day allotted for Private Members' Bills. Such a notice then has precedence over other Bills set down for that day.<sup>389</sup> Debates on Private Members' Bills have been adjourned on motions moved in and adopted by the House. Some of the instances are:

The Parliamentary Secretary to the Minister of Education while intervening in the discussion on the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Second Amendment Bill, 1954, stated that the Government proposed to bring a comprehensive legislation on the subject. The mover of the Bill, therefore, stated that pending the proposed Bill, his Bill be kept pending and further proceedings be postponed. The House agreed.<sup>390</sup>

After some discussion a member moved that the debate on the Constitution (Amendment) Bill, 1962 (to amend the Eighth Schedule) be adjourned. The motion was adopted.<sup>391</sup> Similar motion for adjournment of debate was moved and adopted in respect of the Indian Penal Code (Amendment) Bill, 1963.<sup>392</sup> Upon the motions moved and adopted, the debates on the two Constitution Amendment Bills (to amend articles 143 and 291) were postponed, one to the next session and another indefinitely.<sup>393</sup>

### *Circulation for opinion*

As in the case of Government Bills there have been instances of Private Members' Bills being circulated for purpose of eliciting opinion thereon. These Bills and the subsequent progress regarding them were the following:

1. The Orphanages and Widows' Homes Bill, 1956.<sup>394</sup>
2. The Historical Records (of National Importance) Bill, 1957.<sup>395</sup>
3. The Indian Marine Insurance Bill, 1959.<sup>396</sup>
4. The Representation of the People (Amendment) Bill, 1962.<sup>397</sup>
5. The Indian Penal Code (Amendment) Bill, 1963.<sup>398</sup>
6. The Delhi Rent Control (Amendment) Bill, 1964.<sup>399</sup>
7. The Sterilisation of the Unfit Bill, 1964.<sup>400</sup>
8. The Port Protection Force Bill, 1968.<sup>401</sup>
9. The Payment of Bonus (Amendment) Bill, 1966.<sup>402</sup>

The Bill at Sl. No. 1 was withdrawn by the member in-charge of the Bill,<sup>403</sup> the Bills at Sl. Nos. 2, 4 and 8 lapsed on retirement of the concerned members; the Bills at Sl. Nos. 3 and 5 were referred to Joint and Select Committees,<sup>404</sup> respectively and were eventually passed; the Bill at Sl. No. 6 was referred to a Joint Committee and later withdrawn by the concerned member,<sup>405</sup> motions for reference of the Bills at Sl. Nos. 7 and 9 to Select Committee were negatived.<sup>406</sup>

There have also been instances when motions for circulation of the Private Members' Bill were withdrawn or negatived.

When a member had moved a motion for circulation of the Women's and Children's Institutions (Licensing) Bill, 1953, introduced by her for eliciting opinion thereon, an objection was raised that Parliament could not enact the law for the whole of India to which the Bill was intended to apply. The Deputy Chairman asked the member to withdraw the Bill and bring a fresh one, if necessary.<sup>407</sup>

On another occasion, the motion for circulation of the Prevention of Hydrogenation of Oils Bill, 1962, introduced by a member, for eliciting opinion thereon, was negatived by the House.<sup>408</sup>

### *Register of Bills*

As in the case of Government Bills, a separate Register is maintained by the Secretariat in which Bills introduced in the House by private members are entered. The rules applicable to removal of Government Bills<sup>409</sup> are also applicable to Private Members' Bills. A Private Member's Bill pending before the House is removed from the Register of Bills in case a measure substantially identical is passed by the House or the Bill is withdrawn by the member on that ground.

A private member had introduced the Constitution (Amendment) Bill, 1987, to amend article 326, to lower the minimum voting age in elections from 21 years to 18 years, on 27 February 1987. The motion for consideration of the Bill was discussed on 4 and 25 November 1988, but remained inconclusive. Parliament passed the Constitution (Sixty-second Amendment) Bill, 1988 on 20 December 1988 and the Bill was sent to State Legislatures for ratification. Under the direction of the Chairman given in pursuance of rule 266, the Bill was not listed in the list of business for further consideration on the first Private Members' Bills day in the next session *i.e.*, on Friday, 24 February 1989 and was also removed from the Register of Bills. The member concerned was informed accordingly.<sup>410</sup>

However, on another occasion, a private member who had introduced the Representation of the People (Amendment) Bill, 1991 on 20 December 1991, to restrict the countermanding of the poll only if a candidate set up by recognised political party died, withdrew the Bill on 30 April 1992 in view of the Government Bill on the identical subject having been passed by Parliament, and assented to by the President on 26 March 1992 (Act 2 of 1992).<sup>411</sup>

A Private Member's Bill pending before the House is also removed from the Register of Private Members' Bills in case the member in-charge ceases to be a member of the House<sup>412</sup> or is appointed a Minister.<sup>413</sup>

Earlier the practice was that a member in-charge of a Bill on his appointment as a Minister had to formally move a motion for withdrawal of the Bill introduced by him. Accordingly, for instance, Bills were withdrawn by the concerned Ministers by moving formal motions to that effect on 2 June 1967 and 28 December 1990. But in 1995 after the issuance of a direction by the Chairman<sup>414</sup> as many as 126 Bills introduced by two Private Members were removed from the Register after they were appointed Ministers.<sup>415</sup>

### **Private Members' Bills enacted into law**

So far fourteen Bills have become part of the statute book at the initiative of private members in both the Houses; five of them originated in the Rajya Sabha and nine in the Lok Sabha. Besides those Bills, the Rajya Sabha also passed the Aligarh Muslim University (Amendment) Bill, 1977 on 2 March 1979, which was introduced by Shri Triloki Singh on 5 August 1977. The Bill was reported and laid on the Table in the Lok Sabha on 9 March 1979, where it lapsed on the dissolution of the Sixth Lok Sabha on 22 August 1979, without the Bill being taken up there.

The latest private Member's Bill to have been passed by the Rajya Sabha is the Rights of Transgender Persons Bill, 2014 which was introduced by Shri Tiruchi Siva in the Rajya Sabha on 12 December 2014 and passed by it on 24 April 2015.<sup>416</sup> The Bill was laid on the Table of the Lok Sabha on 29 April 2015<sup>417</sup> and is pending consideration and passage there. If passed by Lok Sabha, the Bill will become the first Private Member's Bill since 1970 to become an Act.

The statement overleaf gives the details of the fourteen Bills.

**Statement of Private Members' Bills Enacted**

Sl. No.	Short title of the Bill	Lok Sabha				Rajya Sabha			
		Dates of introduction (i)/ consideration (c)/ passing (p)	Member piloting the Bill	Whether referred to Select/ Joint Committee	Dates of introduction (i)/ consideration (c)/ passing (p)	Member piloting the Bill	Whether referred to Select/ Joint Committee	Act No. Date of Assent	
1	2	3	4	5	6	7	8	9	
1.	The Muslim Waqfs Bill, 1952	16.7.52(i) 30.7.52 (c) 13.3.53 (c) 14.8.53 (c) 26.11.53 (c) 18.2.54 (c) 4.3.54 (c) 12.3.54 (c & p)	Syed Mohammad Ahmed Kazmi (Congress)	Referred to Select Committee on 13.3.53	15.3.54 (laid on Table) 23.4.54 (c & p)	Shri Akhtar Hussain (Congress)	—	<u>Act 29 of 1954</u> 21.5.54	
2.	The Code of Criminal Procedure (Amendment) Bill, 1953 (Amendment of section 435)	27.11.53 (i) 29.4.55 (c) 5.8.55 (c) 27.7.56 (c & p)	Shri Raghunath Singh (Congress)	—	3.8.56 (laid on Table) 10.8.56 (c & p)	Shri J.N. Kaushal (Congress)	—	<u>Act 39 of 1956</u> 1.9.56	
3.	The Indian Registration (Amendment) Bill, 1955 (Amendment of section 2 etc.)	16.9.55 (i) 16.12.55 (c) 15.3.56 (c) 23.3.56 (c & p)	Shri S.C. Samanta (Congress)	—	19.12.55 (laid on Table) 9.3.56 (c & p)	Shri P.T. Leuva (Congress)	—	<u>Act 17 of 1956</u> 6.4.56	

1	2	3	4	5	6	7	8	9
4.	The Proceedings of Legislature (Protection of Publication) Bill, 1956 [Title changed to the "The Proceedings of Parliament (Protection of Publication) Bill, 1956"] when the Bill was passed by the Lok Sabha]	24.2.56 (i) 23.3.56 (c) 6.4.56 (c) 1.5.56 (c) 4.5.56 (c & p)	Shri Feroze Gandhi (Congress)	Referred to Select Committee on 6.4.56 (c & p)	7.5.56 (laid on Table) 11.5.56 (c & p)	Dr. P. Subbarayan (Congress)	—	<u>Act 24 of 1956</u> 26.5.56
5.	The Women's and Children's Institutions (Licensing) Bill, 1954	26.2.54 (i) 10.8.56 (c) 24.8.56 (c) 25.8.56 (c) 30.11.56 (c) 7.12.56 (c & p)	Rajmata Kamlendu Mati Shah (Independent)	Referred to Select Committee on 24.8.56 (c & p)	10.12.56 (laid on Table) 14.12.56 (c & p)	Dr. (Smt.) Seeta Parmanand (Congress)	—	<u>Act 105 of 1956</u> 30.12.56
6.	The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1954	31.8.56 (laid on Table) 7.12.56 (c & p)	Shri Balwant Sinha Mehta (Congress)	—	3.12.54 (i) 17.12.54 (c) 24.8.56 (c & p)	Dr. Raghubir Singh (Congress)	—	<u>Act 70 of 1956</u> 15.12.56

1	2	3	4	5	6	7	8	9
7.	The Hindu Marriage (Amendment) Bill, 1956 (Amendment of section 10)	3.12.56 (laid on Table) 7.12.56 (c & p)	Smt. Uma Nehru (Congress)	—	24.8.56(i) 30.11.56 (c & p)	Dr. (Smt.) Seeta Parmanand (Congress)	—	Act 73 of 1956 20.12.56
8.	The Code of Criminal Procedure (Amendment) Bill, 1957 (Amendment of section 198)	20.12.57 (i) 11.9.59 (c) 27.11.59 (c & p) 23.8.60 (c & p) 23.12.60 (c & p)	Smt. Subhadra Joshi (Congress)	—	7.12.59 (laid on Table) 19.2.60 (c) 19.8.60 (c & p)	Dr. (Smt.) Seeta Parmanand (Congress)	—	Act 56 of 1960 26.12.60
9.	The Orphanage and other Charitable Homes (Supervision and Control) Bill, 1960	26.2.60 (laid on Table) 18.3.60 (c & p)	Shri Diwan Chand Sharma (Congress)	—	8.5.59 (i) 4.9.59 (c) 30.11.59 (c) 19.2.60 (c & p)	Shri Kailash Bihari Lal (Congress)	Referred to Joint Committee on 4.9.59	Act 10 of 1960 9.4.60
10.	The Marine Insurance Bill, 1963 (Introduced in the Rajya Sabha as the Indian Marine Insurance Bill, 1959)	14.3.63 (laid on Table) 5.4.63 (c & p)	Shri Diwan Chand Sharma (Congress)	—	20.2.59 (i) 17.8.62 (c) 8.3.63 (c & p)	Shri M.P. Bhargava (Congress)	Referred to Joint Committee on 17.8.62	Act 11 of 1963 18.4.63
11.	The Hindu Marriage (Amendment) Bill, 1963	22.2.63 (i) 4.12.64 (c & p)	Shri Diwan Chand Sharma (Congress)	—	8.12.64 (laid on Table) 11.12.64 (c & p)	Shri M.P. Bhargava (Congress)	—	Act 44 of 1964 20.12.64

1	2	3	4	5	6	7	8	9
12.	The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964 (Amendment of sections 3&5)	10.4.64 (i) 24.4.64 (c & p)	Shri Raghunath Singh (Congress)	—	28.4.64 (laid on Table) 8.5.64 (c) 18.9.64 (c & p)	Shri M.P. Bhargava (Congress)	—	<u>Act 26 of 1964</u> 29.9.64
13.	The Indian Penal Code (Amendment) Bill, 1967 (Amendment of sections 292, 293, etc.)	20.12.67 (laid on Table) 14.3.68 (c) 29.3.68 (c) 11.4.68 (c) 1.5.69 (c) 16.5.69 (c & p)	Shri Diwan Chand Sharma (Congress)	Referred to Select Committee on 11.4.68	3.5.63 (i) 26.2.65 (c) 19.8.66 (c) 22.5.67 (c) 4.8.67 (c) 1.12.67 (c) 15.12.67 (c & p) 22.8.69 (c & p)	Divan Chaman Lal (Congress)	Referred to Select Committee on 19.8.66	<u>Act 36 of 1969</u> 7.9.69
14.	The Enlargement of the Appellate Jurisdiction of the Supreme Court Bill, 1968 [Title changed to "The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1970", when passed by Lok Sabha and Rajya Sabha]	15.11.68 (i) 3.4.69 (c) 18.4.69 (c) 17.11.69 (c) 19.12.69 (c & p) 25.3.70 (c) 31.7.70 (c & p)	Shri Anand Narain Mulia (Independent)	Referred to Select Committee on 18.4.69	22.12.69 (laid on Table) 20.3.70 (c & p)	Shri M.P. Bhargava (Congress)	—	<u>Act 28 of 1970</u> 9.8.70

## Constitution Amendment Bills

### *Parliament's power to amend the Constitution*

Article 368 of the Constitution confers power on Parliament to amend the Constitution and prescribes procedure therefor. Until the *Golak Nath* case, the Supreme Court had been holding that Parliament was empowered to amend any provision of the Constitution, without any exception whatever<sup>418</sup> and it could exercise that power over all the provisions of the Constitution.<sup>419</sup> In the *Golak Nath* case, however, the Court held, *inter alia*, that a Constitution Amendment which “took away or abridged” a fundamental right would be void.<sup>420</sup> This decision led Parliament to enact the Constitution (Twenty-fourth Amendment) Act, which declared expressly that there would be no limitation whatever on the constituent power of Parliament to amend the provisions of the Constitution and that article 13 which was a bar against abridging or taking away any of the fundamental rights did not apply to a Constitution Amendment under article 368.<sup>421</sup>

In the *Kesavananda Bharati* case,<sup>422</sup> the Supreme Court reviewed the decision given in the *Golak Nath* case and held, *inter alia*, that article 368 did not enable Parliament to alter the basic structure or framework of the Constitution. The theory of basic structure of the Constitution was reaffirmed and applied by the Supreme Court in the *Indira Nehru Gandhi* case.<sup>423</sup> In the *Minerva Mills* case<sup>424</sup> the Court held that the Constitution had conferred a limited amending power on Parliament and this limited amending power was one of the basic features of the Constitution. Parliament, therefore, could not under article 368 expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic and essential features. The Court developed the concept of basic structure in subsequent cases also.<sup>425</sup>

### *Salient features of article 368*

Apart from the limitations on Parliament's power to amend the Constitution described above, some points of special interest arising with regard to article 368 may also be mentioned.

- (i) When Parliament amends the Constitution, it does so in exercise of its constituent power as distinguished from its ordinary legislative power.
- (ii) An amendment can be initiated only by the introduction of a Bill.
- (iii) Such a Bill can be initiated in either House of Parliament.
- (iv) The Bill so initiated must be passed in each House by a majority of the total membership of that House and by a majority of not

less than two-thirds of the members of that House present and voting.

- (v) In view of the requirement of special majority in each House, there is no provision for a joint sitting in case of disagreement between the two Houses over any amendment to be made or when a Constitution Amendment Bill passed by one House is not passed by the other. In such an eventuality the amendment or the Bill, as the case may be, falls through. The following are the instances when Constitution Amendment Bills passed by one House could not secure the requisite majority in the other House and, therefore, the Bills fell:

The motion for consideration of the Constitution (Twenty-fourth Amendment) Bill, 1970, regarding abolition of privileges and purses of erstwhile rulers, as passed by the Lok Sabha, received 149 votes in favour and 75 against in the Rajya Sabha. The motion was, therefore, lost by a fraction of a vote or one vote.

[(149+75) x2/3=149.33 which was the requirement]

Eventually the Bill fell through.<sup>426</sup>

The motions for consideration of the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills, 1989, regarding Panchayats and Municipalities, as passed by the Lok Sabha, received 157 votes in favour and 83 against in the Rajya Sabha. The motions were, therefore, lost by three votes

[(157+83)x2/3= 160 which was the requirement]

Eventually the Bill fell through.<sup>427</sup>

The motion for consideration of the Constitution (Sixty-fourth Amendment) Bill, 1990, regarding President's Rule in Punjab, as passed by the Rajya Sabha,<sup>428</sup> received 236 votes in the Lok Sabha which was short of the requirement of the majority of the total membership of that House<sup>429</sup> (i.e. 545). The Bill was, therefore, lost there. A new Bill, viz. the Constitution (Sixty-fifth Amendment) Bill, 1990, was introduced and passed in the Lok Sabha by the requisite majority.<sup>430</sup> The Rajya Sabha considered and passed the Bill on 10 April 1990, by adopting earlier a motion to suspend rule 228 which bars repetition of a motion on which the House has given decision in the same session.<sup>431</sup>

- (vi) When a Constitution Amendment Bill as passed by one House is not passed by the other House with requisite majority, the first

House is informed accordingly through a message sent from the other House.

In the case of the Constitution (Sixty-fourth Amendment) Bill mentioned in the preceding paragraph, a point was raised by some members in the Rajya Sabha inquiring about the fate of the Bill.<sup>432</sup> By the time the message was received from the Lok Sabha, the Rajya Sabha had already adjourned. The message was, therefore, circulated through the Bulletin.<sup>433</sup>

- (vii) When the Constitutional Amendment Bill is passed, it must be presented to the President who has to give his assent to the Bill. The President cannot withhold his assent from such a Bill nor can he return the Bill to Parliament as he can do in the case of an ordinary Bill.

The Constitution (Fifty-ninth Amendment) Bill, 1988, relating to Punjab was submitted for the President's assent by the Lok Sabha Secretariat (through the Ministry of Law). Leaders of political parties urged upon the President to return the Bill for reconsideration of Parliament or refer the matter to the Supreme Court for advisory opinion. The President consulted the Attorney-General. In the opinion of the Attorney-General, the article did not give any discretion to the President in a matter relating to the amendment of the Constitution.<sup>434</sup>

- (viii) When the amendment seeks to make any change in any of the provisions mentioned in the proviso to article 368, it must be ratified by not less than one-half of the State Legislatures.
- (ix) Such a ratification is to be done by resolutions passed by the State Legislatures.
- (x) No specific time-limit for the ratification of an amending Bill by the State Legislatures has been laid down; however, the ratification to be taken into account should be done before the amending Bill is presented to the President for his assent. In case a State Legislature ratifies the Bill after its assent, a copy of the resolution is forwarded to the Ministry of Law for information, as per the practice.
- (xi) Only Parliament can amend the Constitution and the role of the States in this regard is limited only to ratification of certain types of amendments, mentioned in the proviso to article 368.

#### *Constitution Amendment Bills introduced in Rajya Sabha*

An amendment to the Constitution may be brought forward by a Minister or a private member. So far as Private Members' Bills seeking to amend the Constitution are concerned, they are introduced in both the

Houses, subject to rules, almost every session. But no such Bill has been passed so far. As regards the Government Bills, they are distinguished by consecutive numbers irrespective of the year of their introduction. This applies equally to the Bills when they are passed and become Acts of Parliament. The following Constitution Amendment Bills have been introduced in the Rajya Sabha so far and passed:

The Constitution (Twenty-first Amendment) Bill, 1967 (inclusion of Sindhi language in the Eighth Schedule) introduced on 20 March 1967; the Constitution (Fifty-ninth Amendment) Bill, 1988 (Proclamation in respect of Punjab), introduced on 14 March 1988; the Constitution (Sixty-second Amendment) Bill, 1989 (continuance of reservation for Scheduled Castes, Scheduled Tribes and Anglo-Indian Community in the Lok Sabha), introduced on 20 December 1989; the Constitution (Seventy-sixth Amendment) Bill, 1992, enacted as the Constitution (Seventieth Amendment) Act (inclusion of Members of the Legislative Assemblies of Union Territories of Delhi and Pondicherry in the electoral college for the election of the President), introduced on 3 April 1992; the Constitution (Eighty-first Amendment) Bill, 1994, enacted as the Constitution (Seventy-eighth Amendment) Act (inclusion of certain State Acts in the Ninth Schedule), introduced on 19 April 1994; the Constitution (Eighty-fifth Amendment) Bill, 1994, enacted as the Constitution (Seventy-sixth Amendment) Act (inclusion of a Tamil Nadu Act about reservation of seats in educational institutions, etc. in the Ninth Schedule), introduced on 24 August 1994; the Constitution (Seventy-seventh Amendment) Bill, 1995 (about reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and Scheduled Tribes introduced on 31 May 1995; the Constitution (Seventy-eighth Amendment) Bill, 1995 (inclusion of certain entries in the Ninth Schedule), introduced on 19 April 1994; the Constitution (Seventy-ninth Amendment) Bill, 1999 (for extending the period for reservation of seats and special representation), introduced on 26 October 1999; the Constitution (Eightieth Amendment) Bill, 2000 (about levy and assignment of taxes in the States), introduced on 9 March 2000; the Constitution (Eighty-first Amendment) Bill, 2000 (for filling up reserved vacancies in succeeding years or year), introduced on 8 May 2000; the Constitution (Eighty-second Amendment) Bill, 2000 (Provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standard of evaluation), introduced on 23 December 1999; the Constitution (Eighty-third Amendment) Bill, 2000 (non-application of provisions of article 243 to the State of Arunachal Pradesh), introduced on 17 December 1999; the Constitution (Ninety-fifth Amendment) Bill, 2009 (to extend the reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and States Assemblies from Sixty years to Seventy years) was introduced on 30 July 2009; the Constitution (One Hundred and Eighth Amendment) Bill, 2008 (to provide reservation

for women in the House of the People and Legislative Assemblies of the States) was introduced on 6 May 2008 and passed on 9 March 2010 and the Constitution (One Hundred Seventeenth Amendment) Bill, 2012 (to provide impediment free reservation in promotion to the Scheduled Castes and the Scheduled Tribes with retrospective effect, *i.e.* 17 June 1995) was introduced on 5 September 2012 and passed on 17 December 2012. The Constitution (One hundred and Twentieth Amendment) Bill, 2013, providing for constitution of the Judicial Appointments Commission was also passed by the Rajya Sabha on 5 September 2013.

Besides the above mentioned Bills, the following Constitution Amendment Bills were also introduced in the Rajya Sabha by Government but could not get enacted for the reasons mentioned against each:

The Constitution Forty-first Amendment Bill, 1975 (protection to Prime Minister under article 361), introduced on 9 August 1975 and passed on the same day and transmitted to the Lok Sabha on 5 January 1976; it lapsed on the dissolution of the Fifth Lok Sabha.

The Constitution (Sixty-first Amendment) Bill, 1988 (transfer of ‘sports’ from the State List to the Concurrent List), introduced on 24 November 1988; it was withdrawn on 3 December 2009.

The Constitution (Sixty-fourth Amendment) Bill, 1990 (extension of Proclamation in respect of Punjab), introduced on 27 March 1990, passed on 28 March 1990 and transmitted to the Lok Sabha; it lost there on 30 March 1990.

The Constitution (Seventieth Amendment) Bill, 1990 (amendment of article 324 of the Constitution) introduced on 30 May 1990; it was withdrawn on 13 June 1994, as the Government did not want to proceed with the Bill.

The Constitution (Seventy-first Amendment) Bill, 1990 (readjustment of seats in the Lok Sabha and State Assemblies), introduced on 30 May 1990; it was passed on 29 April 1992 and transmitted to the Lok Sabha on 4 May 1992; the Lok Sabha referred the Bill to a Select Committee on 7 May 1982; the Bill was withdrawn on 14 June 1994, with the concurrence of the Rajya Sabha given on 13 June 1994.

The Constitution (Seventy-ninth Amendment) Bill, 1992 (population control and small family norm), introduced on 22 December 1992; referred to the Department-related Parliamentary Standing Committee on Human Resource Development, report of the Committee presented on 22 March 1995; it is pending in the Rajya Sabha.

The Constitution (Eighty-third Amendment) Bill, 1997 was introduced on the 28 July 1997; the Bill was referred to the Parliamentary Standing Committee on Human Resource Development; report of the Committee was presented on 24 November 1997; the Bill was withdrawn on 27 November, 2001.

### *Categories of amendments*

The Constitution provides for three categories of amendments.<sup>435</sup> The first category of amendments can be effected by Parliament by law passed by a simple majority. The second category of amendments can be effected by Parliament by the prescribed ‘special majority’. The third category of amendments require ratification by at least one half of the State Legislatures after being passed by a special majority. This categorisation, however, excludes ‘innumerable articles in the Constitution’<sup>436</sup> which leave the matters to be dealt with by Parliament by law as, for example, article 11 regarding citizenship, since such laws do not make any change in the letter of the Constitution. The amending procedure under the three categories is, therefore, described below.

#### *Amendment by simple majority*

A Bill in respect of any of the following subjects is treated as an ordinary Bill and passed by a simple majority: admission or establishment of new States or formation of new States and alteration of areas, boundaries or names of existing States;<sup>437</sup> creation or abolition of Legislative Councils in States;<sup>438</sup> administration and control of Scheduled Areas and Scheduled Tribes;<sup>439</sup> administration of Tribal Areas in the States of Assam, Meghalaya and Mizoram,<sup>440</sup> amendment of Scheduled Castes and Scheduled Tribes Orders.<sup>441</sup>

Normal legislative procedure applies to this category of amendments. However, the Constitution lays down certain conditions before Parliament legislates in respect of some of such amendments. For instance, no Bill for the formation of a new State, etc. can be introduced in either House of Parliament except on the recommendation of the President and unless such Bill is referred by the President to the Legislature of the State concerned for expressing its views thereon within the specified period.<sup>442</sup> Further, Parliament’s power to make law for the abolition or creation of a Legislative Council in the States is exercisable only if the Legislative Assembly of the concerned State passes a resolution to that effect by a majority of not less than two-thirds of the members of the Assembly present and voting.<sup>443</sup>

#### *Amendment by special majority*

Barring the provisions and the Schedules mentioned above which can be amended by a simple majority, a Bill seeking to amend any other provision of the Constitution has to be passed in either House of Parliament by a special majority, *i.e.* a majority of the ‘total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting’. The total membership stipulated in the

Constitution is taken to mean the total number of members comprising the House irrespective of any vacancies or absentees on any account.<sup>444</sup> ‘Abstentions’ in any voting are not taken into consideration in declaring the result on any question.

In connection with the voting on a Constitution Amendment Bill, a member sought the Chair’s interpretation of the expression ‘present and voting’ and wanted to ascertain whether members who abstained from voting would be counted while deciding the majority. The Deputy Chairman while saying that in common sense, voting meant either ‘yes’ or ‘no’, *inter alia*, observed: “it is established that abstentions in any voting are not taken into consideration in declaring the result on any question. A member who votes ‘abstention’ either through the electronic vote recorder or on a voting slip or in any other manner does so only to indicate his presence in the House and his intention to abstain from voting. He does not record his vote within the meaning of the words ‘present and voting’. The expression ‘present and voting’ refers to those who vote for ‘Ayes’ or for ‘Noes’ and not to those who are merely present but not voting either in favour of or against any question before the House. This has also been the practice in this House in the past so that whenever members have abstained from voting, they have not been counted for the purpose of declaring the result of a division. Even in an election, if you abstain, your vote will not be counted.”<sup>445</sup>

Except for the conditions as to the special majority and ratification of certain Bills by State Legislatures, the Constitution does not lay down any other procedure to be followed with respect to Constitution Amendment Bills in the House. As observed by the Supreme Court, “Having provided for the constitution of a Parliament and prescribed a certain procedure for the conduct of its ordinary legislative business to be supplemented by rules by each House (article 118), the makers of the Constitution must be taken to have intended Parliament to follow that procedure, so far as it may be applicable consistently with the express provisions of article 368, when they entrusted to it the power of amending the Constitution.”<sup>446</sup> The Rules of Procedure in the Rajya Sabha, however, do not contain any special provisions in regard to such Bills and rules relating to ordinary Bills, therefore, apply, subject to the requirements of article 368.

The Committee on Draft Rules considered whether special rules should be made regulating the procedure in respect of Constitution Amendment Bills and came to the conclusion that the present practice and procedure had worked satisfactorily and that it was unnecessary to make specific provision for the purpose.<sup>447</sup>

Although strictly interpreted, article 368 requires special majority only for passing a Constitution Amendment Bill at the final stage, as per

the practice and as a matter of abundant caution, the constitutional requirement is adhered to at all the effective stages of the Bill, *i.e.*, for adoption of the motion that the Bill be taken into consideration; for adoption of the clauses and Schedules and the motion that the Bill be passed.

In 1951, the Attorney-General had given the following opinion on a reference made to him by the Speaker:

The expression, ‘when the Bill is passed in each House’ has reference to the passing of the Bill at the final stage. The majority insisted upon by article 368 is, therefore, applicable only to the voting at the final stage. It is, however, better to err on the safer side and take stricter view insisting on the requisite majority at all stages of the passage of the Bill.<sup>448</sup>

The motion that the Bill be referred to a Select or Joint Committee may, however, be passed by a simple majority.

Earlier, the motions for reference of the Constitution (Third and Fourth Amendment) Bills of 1954 and 1955 to Joint Committees respectively were adopted by a special majority.<sup>449</sup> However, on subsequent occasions the motions were adopted by a simple majority.<sup>450</sup>

When a motion has to be carried by a special majority, voting is always by division. The Chairman, while announcing the result of the voting, makes a special mention of the fact that the motion has been carried by a special majority. Each clause or Schedule is put to the vote of the House separately and carried by a special majority. The Chairman may, however, with the concurrence of the House, put any group of clauses or Schedules together to the vote of the House.

On 11 September 1956, after the motion for consideration of the Constitution (Seventh Amendment) Bill, 1956, was adopted, the Deputy Chairman announced the following procedure to be adopted in taking up the clause-by-clause consideration of the Bill containing twenty-nine clauses and a Schedule which would have entailed thirty divisions, if not more, if each clause was disposed by a special majority separately:

...I propose to take up the amendments first. We shall dispose of all the amendments to all the clauses and then take up the clauses together to save the time of the House...If any amendment is accepted, we will put that clause also to vote.

The amendments were accordingly disposed of first—they were either withdrawn or negatived by a voice vote. After ascertaining the views of members he put clauses 6, 18 and 24 separately and other clauses and the Schedule together to vote. Thus, only four divisions were held for disposing the clauses and the Schedule; but the result of the divisions was made applicable separately to individual clauses and the Schedule.<sup>451</sup>

On 31 August 1978, before the clause-by-clause consideration of the Constitution (Forty-fifth Amendment) Bill, 1978 was taken up, the Chairman announced the following procedure to be followed in respect thereof:

...amendments to the clauses may be moved, considered and disposed of when that particular clause is under consideration. If any amendment is adopted by a simple majority, then particular clause as amended will be put to vote immediately. For adoption of the clause, as amended, special majority as prescribed would be necessary. If the amended clause does not get the prescribed majority then that particular clause would be treated as negatived by the House. Thereafter, all the clauses on which there are no amendments or on which amendments have not been accepted will be put to vote together. In case a member presses any particular clause to be put to vote separately, voting on that clause will take place accordingly.<sup>452</sup>

The House agreed with that procedure.

*Amendment by special majority and ratification by State Legislatures*

If an amendment of the Constitution seeks to make any change in articles relating to the election of the President<sup>453</sup> or the extent of the executive power of the Union and the States,<sup>454</sup> or the Supreme Court and the High Courts,<sup>455</sup> or distribution of legislative powers between the Union and States,<sup>456</sup> or the representation of States in Parliament, or the very procedure for amendment as specified in the Constitution,<sup>457</sup> the amendment, after it is passed by the special majority has also to be ratified by Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provisions for such an amendment is presented to the President for assent. The Constitution does not contemplate any time-limit within which the State Legislatures should ratify the amendments referred to them.

The opinion of the Ministry of Law is always obtained as to whether a particular amendment requires to be ratified by State Legislatures. The Chairman may also in case of a doubt refer the matter to the Attorney-General for opinion.

The Constitution (Twenty-fifth Amendment) Bill, 1971, sought to amend article 31 and add a new article 31C. The Minister of Law and Justice made a statement in the House that a question had arisen whether before the Bill was presented to the President for his assent, the amendments proposed by the Bill required ratification by State Legislatures under the proviso to article 368. The contention might be put forward that the terms in which article 31C was framed, deprived the courts of a part of their jurisdiction and, therefore, the article

required ratification. The Government took the view that such ratification was not necessary. However, with a view to avoiding difficulties that might possibly arise and out of abundant caution the Government decided to refer the Bill for ratification to State Legislatures.<sup>458</sup>

The Constitution (Sixty-second Amendment) Bill, 1988, sought to lower the voting age from twenty-one to eighteen years in the elections to the Lok Sabha and to the Legislative Assemblies of States. On the advice of the Ministry of Law, the Bill was referred to State Legislatures for ratification. Meanwhile, a member raised the matter in the House by way of special mention and contended that the Bill did not require ratification.<sup>459</sup> Subsequently, on a suggestion of a member the Chairman referred the matter to the Attorney-General for opinion who confirmed the view of the Ministry of Law and the reference of the Bill to State Legislatures for ratification.<sup>460</sup>

Prior to the Constitution (Twenty-fourth Amendment) Bill, 1971, the procedure with regard to the ratification by the States was that the Union Ministry of Law used to obtain the ratification of the State Legislatures and intimate the Secretariat, accordingly. At the Conference of Presiding Officers held in Goa in 1969, it was decided that “communication should go from Legislature to Legislature...Whether it is Rajya Sabha or Lok Sabha, it should go direct to the State Legislatures and no Ministry should come in.” Since then it is the Secretariat which sends communications to State Legislature Secretariats in the matter. While forwarding a copy of the Bill, as passed by the Houses of Parliament, the following general form of resolution is also suggested to them for ratification:

That this House ratifies the amendment to the Constitution of India falling within the purview of clause....of the proviso to clause (2) of article 368 thereof, proposed to be made by the Constitution (Amendment) Bill, 20....as passed by the Houses of Parliament.<sup>461</sup>

After the required number of State Legislatures have ratified the proposed amendment, the Bill is sent to the President for his assent through the Secretary, Ministry of Law with an endorsement signed by the Chairman, on the Bill: “The above Bill has been passed by the Houses of Parliament in accordance with the provisions of article 368 of the Constitution and has also been ratified by the Legislatures of not less than one-half of the States by Resolutions to that effect as required under the proviso to clause (2) of the said article.” Xerox copies of the resolutions are also sent with the note to the Ministry of Law, while obtaining the assent of the President on the Bill.

So far, out of the ninety-eight amendments of the Constitution, Bills in respect of thirty nine amendments have been referred to State Legislatures for ratifications. These are second, third, sixth, seventh, eighth, thirteenth to sixteenth, twenty-second to twenty-fifth, twenty-eighth, thirtieth to

thirty-second, thirty-fifth, thirty-sixth, thirty-eighth, thirty-ninth, forty-second to forty-sixth, fifty-first, fifty-second, fifty-fourth, sixty-first, sixty-second, seventieth, seventy-third to seventy-fifth, seventy-ninth, eighty-fourth, eighty-eighth and ninety-fifth.<sup>462</sup> As already stated, upto the twenty-third amendments, the Ministry of Law obtained the ratification. Subsequent amendments were got ratified by the Rajya Sabha Secretariat barring the forty-fourth, sixty-second and ninety-fifth amendments which were got ratified by the Lok Sabha Secretariat.

The Bill in respect of the Constitution (Fifty-second Amendment) Act, 1985, popularly known as the Anti-defection Law was not ratified by the State Legislatures. The Supreme Court had an occasion to consider the issue whether the whole constitutional amendment was bad for want of ratification. The Court upheld the validity of the Tenth Schedule inserted by that Act but declared its paragraph 7 invalid for want of ratification as it brought about in terms and effect a change in articles 136, 226 and 227 of the Constitution. While doing so the majority treated paragraph 7 as severable part from the rest of the Schedule. However, the minority of the Judges held that the entire Constitutional Amendment Act was invalid for want of ratification.<sup>463</sup>

#### NOTES AND REFERENCES

1. For instances, see the Transplantation of Human Organs Act, 1994 (42 of 1994) and the Patents (Amendment) Bill, 1995. The Arbitration and Conciliation Act, 1996, contains more than one preambles.
2. In 1954, the Enacting Formula adopted was “Be it enacted by Parliament in the—Year of our Republic as follows.” R.S. Deb., 6.5.1954, c. 5291. The present formula was introduced first in the Himachal Pradesh and Bilaspur (New State) Bill, 1954, as passed by Houses of Parliament.
3. For instance, see the Criminal Law Amendment Bill, 1995 introduced in the Rajya Sabha on 18.5.1995 and the Criminal Law (Second Amendment) Bill, 1995, introduced in the Lok Sabha on 21.8.1995. However, in the case of Constitution Amendment Bills, the numbers in the short titles are given consecutively.
4. For example, see the Transplantation of Human Organs Act, 1994.
5. For instance, see the Criminal Law Amendment Bill, 1995.
6. General Clauses Act, 1897, s. 5(1).
7. For instance, see the Constitution (One Hundred Seventeenth Amendment) Bill, 2012.
8. For instance, see the Representation of the People (Second Amendment) Bill, 1994.
9. For instance, see the Essential Commodities (Special Provisions) Act, 1981 and the Terrorists and Disruptive Activities Act, 1985.
10. For instance, see the National Institute of Design Bill, 2013.
11. For instance, see the Merchant Shipping Act, 1958, ss. 357 and 390.
12. General Clauses Act, 1897, s. 6.
13. For instance, see the Arbitration and Conciliation Bill, 1995, the Higher Education and Research Bill, 2011 and the Rani Lakshmi Bai Central Agricultural University Bill, 2012.
14. The Insurance Laws (Amendment) Bill, 2008, the Armed Forces Tribunal (Amendment) Bill, 2012 and the National Highways Authority of India (Amendment) Bill, 2012.
15. R. 62(1).

16. R. 62(1), *Proviso*.
17. R.S. Deb., 22.7.1982, c. 226-27 and F. No. 2/16/82-B.
18. R. 65.
19. A Memorandum on the Preparation and Passing of Bills, Ministry of Law (1958), p. 12 (hereinafter referred to as *A Memo.*).
20. R. 64.
21. For instance, see the Merchant Shipping (Amendment) Bill, 1993, as introduced in the Rajya Sabha on 6.12.1993.
22. R.S. Deb., 4.12.1953, c.1277-86.
23. C.A. (Leg.) Deb., 9.12.1947, p. 1568.
24. R.S. Deb., 14.12.1956, c. 2489-97.
25. *Ibid.*, 4.9.1959, c. 2968-69.
26. *Ibid.*, 11.5.1963, c. 3128-51; see also R.S. Deb., 30.8.1965, c. 1924; 7.12.1965, c. 4077-78; 1.6.1967, c. 1740-42; 23.12.1968, c. 5331; 23.1.1985, c. 192-93; 19.3.1986, c. 165-66; and 26.8.1987, c. 265.
27. *Ibid.*, 8.5.1986, c. 223-81.
28. *Ibid.*, 23.1.1985, c.191-93.
29. Art. 107(1).
30. Art. 107(2).
31. *A Memo.*, p. 3.
32. P.M. Bakshi, *Legislative Process: Ideals and Reality*, National Publishing House, Delhi, pp. 23-24.
33. *Ibid.*, p. 26.
34. *A Memo.*, p. 4.
35. *Ibid.*, p. 5.
36. *Ibid.*, pp. 5-13.
37. Annual Report, Ministry of Parliamentary Affairs, 1994-95, p. 47.
38. Rpt. of the Committee on Draft Rules of Procedure.
39. F. No. RS 1/5/2014-B.
40. For instance, see the docket page of the Himachal Pradesh and Bilaspur (New State) Bill, 1954; and F. No. CS/7/11/54-L(B).
41. R.S. Deb., 12.12.1967, c. 3587-88.
42. R. 61.
43. R.S. Deb., 22.3.1955, c. 2716-17.
44. Bn. (II), 8.5.1952.
45. R.S. Deb., 24.8.1956, c. 2115-17.
46. *Ibid.*, 14.12.1956, c. 2499-2501.
47. *Ibid.*, 16.3.1956, c. 2899.
48. Directions by the Chairman; Bn. (II), dated 8.11.2012.
49. Revised LoB, 28.8.1987.
50. R.S. Deb., 28.8.1987, c. 221-25.
51. *Ibid.*, 13.5.1988, c. 370-89.
52. F. Nos. 1/28/95-B and 1/42/95-B.
53. R. 225.
54. R.S. Deb., 5.5.1989, c. 322-25.
55. *Ibid.*, 24.3.1972, c. 104.
56. *Ibid.*, 30.1.1976, c.100.
57. *Ibid.*, 27.3.1990, c. 239-41.
58. R. 67.
59. R.S. Deb., 28.7.1952, c. 2102-07.
60. *Ibid.*, 15.3.1954, c. 2737-40.
61. *Ibid.*, 6.5.1982, c. 242-49.
62. *Ibid.*, 22.12.1983, c. 283-85.
63. *Ibid.*, 19.3.1986, c. 159-66.

64. R.S. Deb., 26.8.1987, c. 263-75.
65. *Ibid.*, 14.3.1988, c. 253-302.
66. Bn. (I), 24.11.1988.
67. *Ibid.*, 23.2.1994.
68. *Ibid.*, 2.5.1994.
69. *Ibid.*, 4.2.2004.
70. R. 68.
71. R.S. Deb., 4.8.1952, c. 2847-48. *See*, however, R.S. Deb., 28.7.1952, c. 2106, for the Minister's observation regarding non-supply of copies of the Special Marriage Bill, 1952, before formal introduction.
72. F. No. CS 22(35)/52-L(B).
73. R. 69.
74. *Ibid.*, Proviso.
75. For instance, the Constitution (Fifty-ninth Amendment) Bill, 1988, was introduced and taken up for consideration immediately on 14 March 1988; *and* the Constitution (Eighty-fifth Amendment) Bill, 1994 was introduced and passed on the same day *i.e.*, 24 August 1994; *and* the Tamil Nadu Legislative Council Bill, 2010 was introduced and passed on the same day *i.e.* 5 May 2010.
76. R. 71.
77. R.S. Deb., 24.7.1967, c. 130-34.
78. *Ibid.*, 2.6.1995 re. the Constitution (Eighty-sixth Amendment) Bill, 1995.
79. *Ibid.*, 14.8.1989, c. 73-96.
80. R. 70(2).
81. For instance, *see* PB-I on 29.12.2011 and 21.5.2012 with regard to reference of Lokpal and Lokayuktas Bill, 2011 to Select Committee.
82. R. 70(1).
83. For instance, the Essential Commodities (Special Provisions) Bill, 1981 *and* the Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities (Amendment) Bill, 1981, were taken up for consideration together on 23 April 1981; the Anti-Hijacking Bill, 1982 and the Suppression of Unlawful Acts against Safety of Civil Aviation Bill, 1982, were taken up for consideration together on 2 November 1982. Likewise, the Appropriation (Railways) No.3 Bill, 2013, the Appropriation (No.3) Bill, 2013 *and* the finance Bill, 2013, as passed by Lok Sabha were taken up for consideration and return on 2 May 2013.
84. R. 69(iv).
85. R. 70(2).
86. *Ibid.*
87. F. No. CS 22/14/52-L(B).
88. Bn. (II), 17.2.1953.
89. R. 70(3).
90. Bn. (I), 7.8.1952.
91. *Ibid.*
92. *Ibid.*, 20.12.1952.
93. *Ibid.*, 20.4.1953.
94. R. 72(1); *and* R.S. Deb., 25.1.1980, c. 70-71.
95. Bn.(I), 7.8.1995 *and* 8.8.1995.
96. R. 72(2); *see*, however, R.S. Deb., 7.12.1971, c. 19-20; *see also* R.S. Deb., 14.4.1972, c. 119.
97. C.S. Deb., 16.9.1953, c. 2502.
98. R.S. Deb., 2.6.1995, c. 323.
99. *Ibid.*, 2.3.1982, c. 293-303.
100. *Ibid.*, 2.8.1982, c. 207-15.
101. *Ibid.*, 11.12.1956, c. 2104-06.
102. Bn. (I), 8.8.1995; *and* Bn. (II), 15.11.1995.

- 
103. Art. 88. For instance, Sardar S.S. Majithia, Deputy Minister of Defence and Maulana Abul Kalam Azad, Minister of Education, who were members of the Lok Sabha were named members of the Select Committees of the Rajya Sabha on the Cantonments (Amendment) Bill, 1952, and the Children Bill, 1953, respectively; see C.S. Deb., 6.12.1952, c. 1013; and 19.12.1953, c. 2953.
  104. C.S. Deb., 16.3.1954, c. 2886-88.
  105. R.S. Deb., 16.2.1956, c. 61-62.
  106. *Ibid.*, 2.5.1956, c. 1031.
  107. *Ibid.*, 25.5.1957, c. 1536.
  108. *Ibid.*, 29.8.1985, c. 28-32 and 70-72.
  109. Bn. (I), 23.12.2014 and 6.5.2015.
  110. R.S. Deb., 4.8.1993, c. 304-12.
  111. *Ibid.*, 2.6.1995; Bn. (II), 15.11.1995.
  112. Bn. (I), 16.9.1954 and 20.9.1954.
  113. *Ibid.*, 16.9.1963.
  114. *Ibid.*, 2.8.1982.
  115. *Ibid.*, 8.8.1995.
  116. *Ibid.*, 11.3.2015.
  117. *Ibid.*
  118. C.S. Deb., 16.9.1953, c. 2551.
  119. R.S. Deb., 16.9.1954, c. 2417-21.
  120. *Ibid.*, 21.5.2012, pp. 395-97.
  121. C.S. Deb., 24.7.1952, c. 1876.
  122. R.S. Deb., 2.3.1982, 27.7.1982, 27.4.1988 and 7.1.1991.
  123. C.S. Deb., 24.7.1952, c. 1880, 1881. However, see also L.S. Deb., 17.12.1953, c. 2427 and 30.4.1956, c. 6744-51, for rulings of the Deputy Speaker and the Speaker respectively on the issue.
  124. C.S. Deb., 24.7.1952, c. 1875-76.
  125. F. No. CS/3/52-L.
  126. Bn. (I), 25.8.1954 and L.S. Bn. (I), 8.12.1954; Bn. (I), 10.12.1954 and 20.12.1954.
  127. R.S. Deb., 7.9.1962, c. 5809-10; and L.S. Bn. (I), 7.9.1962.
  128. Bn. (I), 13.5.1988.
  129. L.S. Bn. (I), 13.9.1996 and Bn. (II), 7.10.1996.
  130. R. 270(b) and 273.
  131. Bn. (II), 8.9.1995.
  132. *Ibid.*, 26.8.1995 and 13.9.1995.
  133. R.S. Deb., 10.8.1993, c. 640-42; and Bn. (II), 13.8.1993.
  134. Bn. (II), 10.1.1994 (No. 34207).
  135. Bn. (I), 2.5.1994; and Bn. (II), 9.6.1994.
  136. R.S. Deb., 22.8.1994, c. 379-419; and 23.8.1994, c. 389-90; Bn. (I), 23.8.1994 and Bn. (II), 26.8.1994.
  137. R. 273(b).
  138. Bn. (II), 10.1.1994 and 1.3.1994.
  139. *Ibid.*, 18.5.1995.
  140. *Ibid.*, 22.10.1997.
  141. *Ibid.*, 10.6.1998.
  142. *Ibid.*, 30.7.1998.
  143. *Ibid.*, 7.12.1998.
  144. *Ibid.*, 10.12.1998.
  145. *Ibid.*, 21.1.2000.
  146. *Ibid.*, 30.5.2003.
  147. *Ibid.*, No. 45629, 19.12.2008.
  148. *Ibid.*, No. 47227, 13.5.2010.
  149. *Ibid.*, No. 47228, 13.5.2010.
  150. *Ibid.*, No. 50774, 19.3.2013.

151. The Lokpal Bill, 2011 was introduced in the Lok Sabha on 4 August 2011 and was referred to the Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice which presented its report to the House on 9 December 2011. On the basis of the recommendations of the Committee the Lokpal Bill, 2011 was withdrawn on 22 December 2011 and a revised Bill titled 'The Lokpal and Lokayuktas Bill, 2011' was again introduced in the Lok Sabha. On 27 December 2011, the Bill was passed by the Lok Sabha with certain amendments and was taken up by the Rajya Sabha for consideration on 29 December 2011 but it remained inconclusive. On 21 May 2012, the Rajya Sabha referred the Bill to the Select Committee of Rajya Sabha which presented its report on 23 November 2013. Finally, the Bill was passed by the Rajya Sabha and the Lok Sabha on 17 and 18 December 2013, respectively.
152. F. No. 5/1/96-13; Bn. (II), 4.10.1996.
153. R. 93.
154. R. 94.
155. R. 93(2).
156. R.S. Deb., 2.12.1968, c. 2249-65.
157. Bn. (I), 19.3.2015.
158. *Ibid.*, 20.3.2015.
159. R. 274(1) *read with* R. 277.
160. Bn. (I), 25.8.1994.
161. R. 104.
162. R. 105.
163. C.S. Deb., 20.4.1953, c. 3322-29 and 3402-03.
164. R.S. Deb., 24.8.1981, c. 228-35.
165. R. 106.
166. R. 107.
167. R. 223.
168. R. 95.
169. R.S. Deb., 18.11.1957, c. 164-69, 245-46; and 10.12.1971, c. 44.
170. R. 96(i).
171. F. No. 1/1/81-B; and R.S. Deb., 24.8.1981.
172. R. 96(ii).
173. R.S. Deb., 11.8.1971, c. 240-41.
174. R. 96 (iii).
175. R. 96 (iv).
176. R. 96 (v).
177. R.S. Deb., 11.9.1956, c. 4150-53 and 4177-78.
178. C.S. Deb., 20.4.1953, c. 3329-61.
179. R.S. Deb., 18.12.1954, c. 2657-60.
180. *Ibid.*, 20.12.1957, c. 3452-53; *see also*, R.S. Deb., 18.2.1958, c. 780-84.
181. R. 97.
182. R. 98.
183. Bn. (II), 8.5.1989.
184. R.S.1/38/2010-B.
185. Art. 117(1), *Proviso*.
186. Art. 274(1).
187. C.S. Deb., 24.11.1952, c. 124.
188. Art.117(1), *Proviso*; R.S. Deb., 28.4.1961, c. 1277; and 1.5.1961, c. 1403-04.
189. R. 100.
190. R. 95(2).
191. R. 225.
192. R. 95(1), *Proviso*.
193. R. 99.
194. R. 96(v), *Proviso*.

195. R. 101.
196. R. 229(2).
197. R. 103.
198. R. 109.
199. R.S. Deb., 11.4.1977, c. 221 *and* 265.
200. R. 109 (2) *and* (3).
201. R. 109 (4).
202. R. 110.
203. R.S. Deb., 1.6.1957, c. 2728-33.
204. R. 108. For instances, F. No. 1/68/88-B *and* 1/12/92-B.
205. C.S. Deb., 6.5.1954, c. 5291.
206. R.S. Deb., 5.3.1956, c. 1571.
207. F. No. RS1/62/2010-B.
208. R. 117.
209. R.S. Deb., 5.8.1975, c. 72-74.
210. *Ibid.*, 24.12.1968, c. 5542.
211. *Ibid.*, 16.9.1963, c. 4319-29.
212. R. 230(2).
213. R. 118.
214. *Ibid.*, *Proviso*.
215. *Ibid.*, 2<sup>nd</sup> *Proviso*.
216. Bn. (I), 11.5.2015.
217. L.S.R. 110, 2<sup>nd</sup> *Proviso*.
218. R.S. Deb., 29.5.1956; 27.7.1966; 17.11.1970; 28.7.1983; 25.2.1993; 1.3.1993 *and* 13.6.1994.
219. F. No. 1/6/88-B; 1/1/91-B *and* 1/35/95-B.
220. R. 119.
221. R.S. Deb., 11.8.1959, c. 254-64; *see also*, R.S. Deb., 27.7.1966, c. 446-58; *and* 17.11.1970, c. 168-69.
222. F. No. 1/35/95-B; *and* R.S. Deb., 22.8.1995, c. 368.
223. R. 120(1).
224. R. 120(2).
225. R. 185(3).
226. R. 112.
227. R. 113.
228. R. 114(1).
229. R. 114(2).
230. R. 115.
231. R. 116.
232. Art. 108(1).
233. For details, *see Chapter-5, supra*.
234. R. 121.
235. R.S. Deb., 4.9.1970, c. 33-43.
236. Bn. (II), 21.12.2012.
237. R. 122.
238. R. 123.
239. For waiver of notice *see* F. No. 1/12/92-B, re. Citizenship (Amendment) Bill, 1993 *and* F. No. 1/4/2013, Criminal Law( Amendment) Bill, 2013.
240. R.S. Deb., 24.12.1969, c. 5859.
241. *Ibid.*, 15.12.1977, c. 180-87.
242. *Ibid.*, 8.5.1986, c. 280.
243. *Ibid.*, 16.12.1987, c. 78-93.
244. R. 124.
245. R. 125.

246. R. 126.
247. R. 127.
248. R. 128.
249. Bn. (I), 30.3.1990, 10.4.1990, 5.9.1990, 9.8.2000, 10.8.2000, 11.8.2000, 21.12.2011 and 19.12.2012.
250. R. 129.
251. R. 130.
252. R. 131(1).
253. R. 131(2).
254. R. 132.
255. R. 133.
256. R. 134.
257. See Chapter 5, *supra*; and R.S. Deb., 8.12.1977 for details.
258. Art. 111; R. 135.
259. R.135, *Proviso*. For instances, see F. No. 6/9/93-B.
260. Art. 111.
261. *Ibid.*, *Proviso*.
262. *Ibid.*
263. For instance, Bn. (II), 29.4.1977 and 8.7.1977.
264. F. No. 1/31/91-B.
265. Bn. (I), 9.3.1992.
266. L.S. Deb., 5.4.1954, c. 4035.
267. R. 136.
268. Bn. (II), 10.1.1990.
269. F. No. 1/51/86-B.
270. *Ibid.*
271. Art. 368.
272. Art. 110(1).
273. Art. 110(2).
274. Art. 110(3).
275. Art. 110(4).
276. C.S. Deb., 31.5.1952, c. 910-15.
277. *Ibid.*, 30.4.1953, c. 4455-56.
278. *Ibid.*, 6.5.1953, c. 5040.
279. Art. 109(1).
280. R. 186(1).
281. R. 186(4).
282. R. 186(5).
283. R. 186(6).
284. Art. 109(2).
285. *Ibid.*
286. Art. 109(3).
287. Art. 109(4).
288. Bn. (I), 27.4.1956.
289. *Ibid.*, 19.12.1957.
290. *Ibid.*, 4.9.1961.
291. *Ibid.*, 30.1.1977.
292. *Ibid.*, 28.7.1977.
293. *Ibid.*, 9.5.1978.
294. *Ibid.*, 3.5.1956, 21.12.1957, 8.9.1961, 3.8.1977, 11.5.1978, and 31.1.1985.
295. Art. 109(5).
296. Art. 109(2).
297. Art. 367.
298. L.S. Deb., 1.8.1955, c. 8950-53; Bn. (I), 16.8.1955.

299. Kaul & Shakdher, p. 473, *f.n.* 19.
300. Bn. (I), 12.3.1996.
301. Bn. (II), 12.3.1996.
302. Bn. (I), 12.6.1998.
303. *Ibid.*, 15.3.1999.
304. *Ibid.*, 18.3.1999.
305. *Ibid.*, 8.5.2000.
306. *Ibid.*, 11.5.2000.
307. *Ibid.*, 1.8.2002.
308. *Ibid.*, 12.8.2002.
309. Bn.(II), No. 45820, 11.2.2009.
310. Art. 110(4).
311. For instance, the Contingency Fund of India (Amendment) Bill, 1994, as passed by Houses of Parliament and Supreme Court (Number of Judges) Amendment Bill, 2008.
312. R.S. Deb., 26.4.1961, c. 900-02.
313. R. 186(7).
314. R. 186(8).
315. R.S. Deb., 17.3.1978, c. 176-85.
316. *Ibid.*, 5.5.1978, c. 164-76.
317. F. No. 2/14/77-B.
318. R.S. Deb., 28.7.1978, c. 190-91.
319. Art. 117(1).
320. *Ibid.*
321. R.S. Deb., 28.4.1961, c. 1273-77.
322. *Ibid.*, 1.5.1961, c. 1403-04.
323. Art. 117(3).
324. R.S. Deb., 22.12.1980, c. 207.
325. *Ibid.*, 24.12.1980, c. 256-66.
326. *Ibid.*, 18.3.1981, c. 283-90.
327. *Ibid.*, 16.9.1953, c. 2501.
328. F. No. 1/13/91-B.
329. R. 185(1).
330. R. 185(2).
331. R. 185(3).
332. R. 185(4).
333. F. No. 1/3/91-B.
334. R.S. Deb., 28.5.1956, c. 3562-64.
335. *Ibid.*, 16.9.1963, c. 4260-4340.
336. *Ibid.*, 26.8.1968, c. 4530.
337. Art. 123(1).
338. Art. 123(2).
339. For instance, the State of Nagaland (Amendment) Ordinance, 1981, was promulgated on a Bill on the subject introduced on 19.2.1981 in the Rajya Sabha. The Ordinance was laid on the Table of the Rajya Sabha on 18.8.1981.
340. For instance, the Sick Textile Undertaking (Nationalisation) Amendment Ordinance, 1995 and Central Industrial Security Force (Amendment) Ordinance, 2009.
341. For instance, the Depositories Ordinance, 1996, the Bill on the subject has been passed by the Lok Sabha and is pending in the Rajya Sabha.
342. For instance, the Representation of the People (Amendment) Ordinance, 1985, which was not replaced by a Bill.
343. R.S. Deb., 15.11.1971, c. 193-98.
344. *Ibid.*, 17.11.1980, c. 217-30.
345. *Ibid.*, 6.11.1987, c. 237-42.
346. Art. 123(2).

347. R. 66(2).
348. R.S. Deb., 25.8.1981, c. 320-46; and 26.8.1981, c. 139-49.
349. *Ibid.*, 8.9.1981, c. 221-23.
350. R. 66(1).
351. R.S. Deb., 14.2.1995.
352. See, however, R.S. Deb., 23.6.1971, c. 45-47 and 24.6.1971, when the disapproval resolution and the Bill in respect of the Maintenance of Internal Security Ordinance, 1971, were discussed separately and R.S. Deb., 8.12.1977 when the disapproval resolution and the motion in respect of the Banking Service Commission (Repeal) Bill, 1977 were put to vote separately.
353. R.S. Deb., 5.8.1991, c. 181.
354. *Ibid.*, 18.8.1958, c. 98-110.
355. R. 62(1) and (3).
356. R. 62(1).
357. Bn. (II), No. 36268, 2.5.1997.
358. R. 25(1).
359. R. 25(2).
360. R. 25(3).
361. R. 25(3), 1<sup>st</sup> Proviso; and R. 29(4).
362. Bn. (II), No. 36268, 2.5.1997.
363. R. 25(3), 2<sup>nd</sup> Proviso.
364. Bn. (II), 12.11.2014.
365. 4 Rpt., COR (adopted on 14.5.1986), pp. 1-2.
366. BAC mts., 28.4.1969.
367. R. 25(2)(a).
368. R.S. Deb., 28.12.1990, c. 285-90; and LoB 30.4.1992.
369. Bn. (I), 24.8.1956.
370. R.S. Deb., 29.11.1968, c. 2016-17.
371. *Ibid.*, 30.7.1993, c. 364-71.
372. Bn. (I), 13.8.1993.
373. *Ibid.*, 9.7.2004.
374. *Ibid.*, 3.12.2004.
375. *Ibid.*, 24.11.2006.
376. R. 25(3), and 3<sup>rd</sup> Proviso.
377. For instance, Bn. (II), 20.2.1996.
378. C.S., Deb., 4.12.1953, c. 1286, 1304 and 1351.
379. R.S. Deb., 17.8.1995, c. 316.
380. R.S. Deb.; The Prevention of Influx of Foreign Nationals in the Country Bill, 1991, 12.8.1994, c. 266-67; The Payment of Bonus (Amendment) Bill, 2012 and R.S. Deb., 22.2.2013, c.108-110.
381. For instance, Bn. (II), 1.5.2013.
382. R.S. Deb., 17.12.1954, c. 2433-34.
383. C.S. Deb., 4.12.1953, c. 1304-22.
384. *Ibid.*, 5.3.1954, c. 1809-10.
385. F. No. 2/36/91-B.
386. F. No. 2/18/92-B.
387. Bn. (II), No. 36268, 2.5.1997.
388. R. 28(1).
389. R. 28(2).
390. R.S. Deb., 17.12.1954, c. 2513-15.
391. *Ibid.*, 23.8.1963, c. 1289.
392. *Ibid.*, 18.8.1967, c. 4918.
393. *Ibid.*, 29.11.1968, c. 1995.
394. *Ibid.*, 30.11.1956.

- 
395. R.S. Deb., 30.8.1957.  
396. *Ibid.*, 21.8.1959.  
397. *Ibid.*, 13.12.1963.  
398. *Ibid.*, 26.2.1965.  
399. *Ibid.*, 4.3.1966.  
400. *Ibid.*, 14.3.1969.  
401. *Ibid.*, 23.2.1968.  
402. *Ibid.*, 7.8.1970.  
403. *Ibid.*, 21.8.1959.  
404. *Ibid.*, 17.8.1962 and 19.3.1966.  
405. *Ibid.*, 28.3.1969.  
406. *Ibid.*, 20.3.1970 and 26.3.1971.  
407. C.S. Deb., 4.12.1953, c. 1277-86.  
408. R.S. Deb., 6.9.1963, c. 3113.  
409. R. 120.  
410. F. No. 2/1/87-B.  
411. R.S. Deb., 30.4.1992, c. 309-10; and F. No. 2/65/91-B.  
412. R. 120(3).  
413. Direction from the Chair, published in Bn. (II), 23.11.1995 (No. 35373).  
414. *Ibid.*  
415. Bn. (II), No. 35411, 27.11.1995.  
416. Bn. (II), 12.12.2004 and 24.4.2015.  
417. *Ibid.*, 29.4.2015.  
418. *Shankari Prasad Singh Deo v. Union of India*, AIR 1951 SC 458.  
419. *Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845.  
420. *L.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643.  
421. Clauses (3) and (5).  
422. *His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala*, AIR 1973 SC 1461.  
423. *Indira Nehru Gandhi v. Raj Narain*, AIR 1975, SC 2299.  
424. *Minerva Mills Ltd. v. Union of India*, AIR 1980, SC 1789.  
425. *Waman Rao v. Union of India*, AIR 1981, SC 271; *Bhim Singhji v. Union of India*, AIR 1981 SC 234; *S.P. Gupta v. President of India*, AIR 1982 SC 149; *S.P. Sampath Kumar v. Union of India*, AIR 1987 SC 386; *P. Sambamurthy v. State of Andhra Pradesh*, AIR 1987 SC 663; *Kihota Hollohon v. Zachilhu and Others*, AIR 1993 SC 412; *S.R. Bommai v. Union of India*, AIR 1994 SC 1918.  
426. Bn. (I), 5.9.1970.  
427. *Ibid.*, 13.10.1989.  
428. *Ibid.*, 28.3.1990.  
429. L.S. Bn. (I), 30.3.1990.  
430. *Ibid.*, 5.4.1990.  
431. Bn. (I), 10.4.1990.  
432. R.S. Deb., 30.3.1990, c. 306-15.  
433. Bn. (II), 4.4.1990.  
434. R. Venkataraman, *My Presidential Years*, pp. 142-47.  
435. *Shankari Prasad Singh Deo v. Union of India*, AIR 1951, SC 458.  
436. C.A. Deb., Vol. IX, 17.9.1949, p. 1660.  
437. Arts. 2-4.  
438. Art. 169.  
439. Fifth Schedule to the Constitution, para. 7.  
440. Sixth Schedule to the Constitution, para. 21.  
441. Arts. 341 and 342.  
442. Art. 3.  
443. Art. 169(1).  
444. Kaul & Shakdher, p. 542, f.n. 463.

- 
- 445. R.S. Deb., 13.10.1989, c. 178-79.
  - 446. *Shankari Prasad Singh Deo v. Union of India*, AIR 1951 SC 458.
  - 447. Rpt. of the Committee on Draft Rules of Procedure, p. viii.
  - 448. Kaul & Shakdher, *op. cit.*
  - 449. Bn. (I), 16.9.1954 and 19.3.1955.
  - 450. *Ibid.*, 2.5.1956, 16.5.1956, 12.12.1962, 25.1.1963 and 21.12.1991.
  - 451. R.S. Deb., 11.9.1956, c. 4147 and 4201-19.
  - 452. *Ibid.*, 31.8.1978, c. 107.
  - 453. Arts. 54 and 55.
  - 454. Arts. 73 and 162.
  - 455. Art. 241, Chapter IV of Part V, Chapter V of Part VI.
  - 456. Chapter I of Part XI and 7th Sch.
  - 457. Art. 368.
  - 458. R.S. Deb., 17.12.1971, c. 18-19
  - 459. *Ibid.*, 19.12.1988, c. 8-15.
  - 460. F. No. 1/67/88-B.
  - 461. F. No. 1/28/92-B.
  - 462. From Constitution Files records maintained by the Rajya Sabha Secretariat.
  - 463. *Kihota Hollohon v. Zachilhu & Others, op. cit.*

## CHAPTER–22

### Resolutions

**M**ost of the business in Parliament is transacted by means of motions. After a matter has been discussed, the motion is put to the vote of the House, which is technically known as putting the question. “The decision which the putting of the question has thus elicited turns the motion into a resolution of order.”<sup>1</sup> Every question, when agreed to, becomes either an order or of a resolution of the House. By its resolutions, the House declares its own opinions and purposes.<sup>2</sup>

Any member may, subject to the rules, move a resolution in the Rajya Sabha relating to a matter of general public interest.<sup>3</sup> Resolutions may be categorised as: (i) private members’ resolutions, *i.e.* resolutions which are moved by a member, other than a Minister on an allotted day; (ii) Government resolutions, *i.e.* resolutions which are moved by Ministers; and (iii) statutory resolutions *i.e.* resolutions which are moved in pursuance of a provision contained in the Constitution or an Act of Parliament.

#### A. Private members’ resolutions

##### *Notice and draw of lot*

Unless the Chairman otherwise directs, not less than two and a half hours of a sitting on Friday are allotted for private members’ business.<sup>4</sup> Alternate Fridays are allotted for resolutions and Bills. A private member, *i.e.*, a member other than a Minister<sup>5</sup> who wishes to move a resolution on a day allotted for private members’ resolutions has to give a notice to that effect at least two days before the date of draw of lot.<sup>6</sup>

Until the Fifty-fifth Session (1966), the procedure was that members used to give notices of resolutions for allotted days within the prescribed time and those resolutions which were admitted were notified in the Bulletin and balloted with a view to selecting five of them for inclusion in the list of business for allotted days during the session. The present procedure was put in operation with effect from that Session.<sup>7</sup> Rule 154 was, however, amended only later, on the recommendation of the Rules Committee to incorporate the new practice.<sup>8</sup>

The names of all members from whom such notices are received are drawn by lot for the allotted day<sup>9</sup> and those members who secure the first five places therein are eligible to give notice of one resolution each within ten days of the draw of lot.<sup>10</sup> A separate draw of lot is held for each allotted day. The date and time for holding the draw of lot are notified in Parliamentary Bulletin Part-II before the commencement of a session. In accordance with the practice the names of members who would be eligible to give a resolution are ordinarily balloted twenty-one days in advance of the allotted day. However, if the time gap between the date of issue of the summons and the allotted day is less than twenty-one days, the date of draw of lot is advanced.

For instance, the 80<sup>th</sup> Session commenced on 8 May 1972 and the summons to members were issued on 18 April 1972. The date of draw of lot was fixed on 25 April 1972, instead of 21 April 1972, i.e., a week after the issue of summons for allotted day on 12 May 1972.<sup>11</sup>

#### *Form*

A resolution may be in the form of a declaration of opinion by the House or in such other form as the Chairman may consider appropriate,<sup>12</sup> such as, in the form of expression of concern on a situation,<sup>13</sup> urging reversal, change, review, reformulation of a policy,<sup>14</sup> urging for a legislation or Constitution amendment<sup>15</sup> or drawing urgent attention to a matter of public interest<sup>16</sup> or making appeal to international community on a subject,<sup>17</sup> and so on.

#### *Conditions of admissibility*

In order that a resolution may be admissible, it should (i) be clearly and precisely expressed;<sup>18</sup> (ii) raise substantially one definite issue;<sup>19</sup> (iii) not contain arguments, inferences, ironical expressions, imputations, or defamatory statements;<sup>20</sup> (iv) not refer to the conduct or character of persons except in their official or public capacity;<sup>21</sup> and (v) not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India.<sup>22</sup>

A member gave notice of a resolution calling upon Government to revoke Proclamations issued under article 356 of the Constitution imposing President's rule in nine States, on 17 February 1980. It was brought to the notice of the Chairman that a number of petitions were pending in High Courts challenging the Proclamations. The Chairman heard leaders of various groups and other members including the Leader of the House in his Chamber. The Chairman declined to admit the resolution and held, *inter alia*, as under:

It is unlikely that the resolution will not entail detailed discussion of the self-same matters in the House. Although a resolution of

this type does not approve or disapprove the Presidential Proclamation, it will cover the same grounds as the petitions. Apart from the fact that by itself the resolution, if passed, will not affect the normal procedure which the Constitution contemplates, it is obviously a peg to bring into discussion in the House the grounds on which the petitions are based. This is precisely the substance of the matter under sub-rule (v) of rule 157 which the House itself has framed as a matter of comity between itself and the courts. To admit the resolution will be to breach the comity created.<sup>23</sup>

A resolution under the administrative jurisdiction of the Presiding Officer is also not admitted. However, there have been instances when resolutions of general nature though ultimately or indirectly may come within such jurisdiction have been admitted and moved.

A resolution was moved and discussed regarding the need for a law to regulate recruitment, promotion and conditions of service for all categories of Government employees, including employees of Parliament. The resolution was, however, withdrawn by the leave of the House.<sup>24</sup>

Another resolution moved was regarding televising the proceedings of Parliament. The resolution was eventually withdrawn. However, Government assured that the issues and problems involved in the proposal would be placed before the General Purposes Committee of each House.<sup>25</sup>

After a resolution has been moved in the House, no resolution or amendment raising substantially the same question can be moved within one year from the date of the moving of the earlier resolution.<sup>26</sup> If a resolution has been withdrawn or is deemed to be withdrawn with the leave of the House, no resolution raising substantially the same question can be moved during the same session.<sup>27</sup> A resolution should not also raise a question substantially identical with the one on which the House has already given a decision in the same session.<sup>28</sup>

The Chairman decides whether a resolution or a part thereof is or is not admissible under the rules and may disallow a resolution or a part thereof when in his opinion it does not comply with the rules.<sup>29</sup> If on scrutiny, the notice of the resolution given by a member is found to be inadmissible, the member concerned is asked to give another one. The admitted resolutions are first notified in a Parliamentary Bulletin Part-II and thereafter included in the list of business in the order of the draw of lot. A copy each of the admitted resolutions is forwarded to the Ministry of Parliamentary Affairs for onward transmission to the concerned Ministries.

*Resumption of adjourned debate on private members' resolutions*

When the debate on a private members' resolution is adjourned *sine die*, the mover of the resolution may, if he wishes to proceed with such resolution on a subsequent day allotted for private members' resolutions, give notice for resumption of the adjourned debate and on receipt of such notice, such a resolution has precedence over other resolutions set down for that day.<sup>30</sup>

When on a motion being carried, the debate on a private member's resolution is adjourned to the next day allotted for private members' resolutions in the same or next session, it is not set down for further discussion unless it has gained priority in the draw of lot.<sup>31</sup> Accordingly, unless a motion is moved or the House agrees by consensus, the resolution which remains inconclusive is not automatically carried forward to the next session. The discussion remains inconclusive and the resolution lapses at the end of that session.

There have been a few instances when on a motion moved and adopted, the discussion on a private member's resolution has been carried to the next session to be taken up as the first item on the first day allotted to the private members' resolutions. The two instances are of early fifties<sup>32</sup> and the other two instances took place more than four decades later.<sup>33</sup> However, during the period between 2001 and 2014, there have been as many as fifteen occasions when private members' resolutions had been carried over to the next session.<sup>34</sup>

When a resolution has been moved in the House, one of the following contingencies may arise: it may be adopted, it may be negatived, it may be withdrawn, it may be talked out (*i.e.*, remain inconclusively discussed without being adopted, negatived or withdrawn), or the debate thereon may be adjourned to be resumed later.

*Admitted resolutions*

The list of business for a day allotted for private members' resolutions generally contains five resolutions in the names of members who are successful in the draw of lot, in addition to a part-discussed resolution, if any.<sup>35</sup> However, if all members securing places in the draw of lot do not submit their resolutions the list of business may contain less than five resolutions.<sup>36</sup> The resolutions are put down in the list of business in the order in which the names of members appear in the result of the draw of lot. A resolution which remains part-discussed at the end of the day has precedence over all other resolutions set down for the next allotted day

in the same session.<sup>37</sup> If a resolution set down in the list of business for a day is not taken up on that day, it is treated as withdrawn and is not set down for discussion on any subsequent day during the session,<sup>38</sup> unless it is given again by a member securing a place in the draw of lot for that day in that session.

#### *Allotment of time*

The last two and a half hours of a sitting on every alternate Friday in the session are allotted for the discussion of private members' resolutions. The Chairman may, in consultation with the Leader of the House, allot any day other than a Friday for the purpose. If there is no sitting of the House on a Friday, the Chairman may direct that two and a half hours on any other day in the week may be allotted for private members' resolutions.<sup>39</sup> The time may also be shifted due to exigencies of the business.

#### *Time limit for resolutions*

The Business Advisory Committee is empowered to recommend the time that should be allocated for the discussion of private members' resolutions.

On many occasions, the Business Advisory Committee has, while allotting two and a half hours for a resolution or without doing so, recommended that the discussion on a resolution should be concluded the same day.<sup>40</sup>

On an occasion, a member moved a resolution on 7 March 1969, regarding diplomatic recognition to German Democratic Republic. The resolution was discussed on 21 March 1969 also but remained inconclusive. The mover of the resolution moved a motion "that the time for the debate on the resolution be extended." The motion was negated by a division and the resolution lapsed at the end of the session.<sup>41</sup>

The General Purposes Committee in its meeting held on 28 April 2008 decided that the time limit of two hours for discussion on a private member's resolution should be strictly adhered to. It was also recommended by the Committee that a private member's resolution taken up on a day should be disposed of on the same day.

No speech on a resolution can, except with the permission of the Chairman, exceed fifteen minutes in duration. However, the mover of a resolution, when moving it, and the Minister concerned when speaking for the first time, may speak for thirty minutes or for such longer time as the Chairman may permit.<sup>42</sup> In order to ensure that the discussion on a resolution

is concluded within a stipulated time frame, the Chairman has issued direction on 2 May 1997 to the effect that the maximum time limit for discussion on a private member's resolution shall be two hours.<sup>43</sup>

#### *Moving of resolution*

A member in whose name a resolution stands in the list of business, when called on, moves the resolution, unless he wishes to withdraw it, commencing his speech by formal motion in the terms appearing in the list of business.<sup>44</sup>

A member may, with the permission of the Chairman, authorise any other member in whose name the same resolution stands lower in the list of business, to move it on his behalf and the member so authorised may move accordingly.<sup>45</sup>

If a member, when called on to move a resolution is absent, any other member authorised by him in writing in this behalf may, with the permission of the Chairman, move the resolution standing in his name.<sup>46</sup>

On an occasion, a member moved a resolution on behalf of another member. After the disposal of that resolution, he also moved his own resolution standing next to the previous resolution in the list of business.<sup>47</sup>

#### *Amendments*

After a resolution has been moved, any member may, subject to the rules relating to resolutions, move an amendment to the resolution.<sup>48</sup> If notice of such amendment has not been given one day before the day on which the resolution is moved, any member may object to the moving of the amendment, and such objection prevails, unless the Chairman allows the amendments to be moved.<sup>49</sup> Lists of amendments of which notices have been received are circulated to members from time to time.<sup>50</sup>

To a resolution regarding appointment of a Committee to inquire into conditions of literatures in various Indian languages as many as thirteen amendments were moved.<sup>51</sup>

On an occasion, a resolution was declared as adopted. However, objection was taken on the ground that the demand of some members for a division thereon was not conceded by the Chair. The House had to be adjourned for a while. After it reassembled, the Chair permitted the mover to move two amendments. Then the resolution, as amended, was adopted.<sup>52</sup>

*Scope of discussion and right of reply*

The discussion on a resolution must be strictly relevant to and within the scope of the resolution.<sup>53</sup> The mover of the resolution has the right of reply. In the absence of the mover, the resolution is put to vote for taking a decision thereon.

On an occasion, in respect of a resolution regarding food situation in the country, the House granted permission to the concerned Minister not to intervene in the debate (due to the discussion on food situation proposed next week).<sup>54</sup>

A resolution was discussed on a Friday inconclusively. After a fortnight, when the resolution was to be taken up for further consideration, a member informed that he had received a telegram from the mover for the withdrawal of the resolution in view of the reply of the Minister and that the mover had sent a telegram to the Secretariat also. However, the resolution was put to vote and negated.<sup>55</sup>

The discussion on a resolution moved on 10 March 2006 during 207<sup>th</sup> Session, was to resume on the next private members' day, i.e. 19 May 2006. But due to absence of the mover of the resolution, it was put to vote and negated by the House.<sup>56</sup>

During 218<sup>th</sup> Session, the discussion on the resolution moved on 26 November 2009 was to resume on 11 December 2009. But due to absence of the mover of the resolution, it was put to vote and negated.<sup>57</sup>

*Putting and splitting of resolution*

As already stated a resolution moved is either adopted, negated, withdrawn, postponed or talked out. Any of the first three contingencies takes place when the Chair puts the resolution to the House at the end of discussion. When any resolution involving several points has been discussed, the Chairman may divide the resolution, and put each or any point separately to the vote, as he may think fit.<sup>58</sup> The Chairman may also amend the resolution factually before putting it to the House.

On 23 August 1954, the Chairman had announced the changed nomenclature of the Council of States as Rajya Sabha.<sup>59</sup> The Chair put a resolution which was under discussion from the previous session, with the amendments in the text of the resolution as follows:

- (i) For the beginning words of the original resolution, "This Council", the words substituted were "This House"; and
- (ii) the word "proposed" (military aid) was omitted.

The resolution was, however, negated.<sup>60</sup>

A copy of every resolution which has been adopted by the House is forwarded to the Minister concerned by the Secretariat.<sup>61</sup>

#### *Withdrawal of resolution*

A member in whose name a resolution stands in the list of business, may, when called on, withdraw the resolution in which case he confines himself to a mere statement to that effect.<sup>62</sup>

A resolution regarding appointment of a Committee to go into the working of three Akademies was included in the list of business. The Minister of Education and Youth Affairs informed the House about Government's decision to appoint a Committee. In view of this, the member stated that he did not propose to move the resolution and the resolution was, therefore, not moved.<sup>63</sup>

But if the resolution or an amendment thereto has been moved, the same cannot be withdrawn except by leave of the House.<sup>64</sup> The leave of the House is signified by the Chairman taking the pleasure of the House. If no one dissents, the leave is given, if any dissentient voice is heard, the Chairman puts the resolution for the decision of the House.<sup>65</sup>

While replying to the debate on his resolution, a member asked for the leave of the House to withdraw it. The Deputy Chairman asked the House whether the mover had the leave. A member said 'No'. Thereafter, the resolution was put to the vote of the House and negated.<sup>66</sup>

#### *Non-withdrawal of resolution*

A member in whose name a resolution stands in the list of business and on which the discussion has concluded may, when called on, withdraw it with the permission of the House by a mere statement to that effect. However, if the mover of resolution refuses to withdraw his resolution, when called on to do so, the Chairman puts the resolution for decision of the House.

During 226<sup>th</sup> Session, the carried forward resolution regarding formation of a separate State of Telangana, moved on 4 May 2012 in 225<sup>th</sup> Session, was taken up for further discussion on 17 August 2012. The debate on the resolution concluded but the member refused to withdraw his resolution when called on to do so. The Chair, accordingly put the resolution to vote and the same was negated.<sup>67</sup>

#### *Removal of a resolution from the list due to retirement of a member*

A resolution of a member was discussed on 17 March 1972. The discussion was not concluded that day. The member retired on 2 April 1972. The resolution was included for the subsequent day i.e., 7 April 1972. However, a revised list of business was issued to omit the resolution on the ground

that a resolution moved by a private member and pending in the House would lapse when the member concerned ceased to be a member of the House.<sup>68</sup> A similar occasion arose again when a resolution moved by a member on 8 March 2002, remained inconclusive after discussion on that day. The member retired on 9 April 2002. On the same analogy as mentioned above, the resolution was treated as lapsed<sup>69</sup> and notified in Parliamentary Bulletin Part-II dated 11 April 2002.

*Private members' resolutions adopted*

Since 1952, a number of resolutions have been discussed. Some of the resolutions which have been adopted are as follows:

Prohibiting exhibition of undesirable films, moved by Shrimati Lilavati Munshi<sup>70</sup> (Cinematograph Act was amended in 1959); enfranchisement of displaced persons from Pakistan, moved by Shri B.C. Ghose<sup>71</sup> (Citizenship Act was amended in 1955); widening the scope of NCC/ACC, moved by Dr. (Shrimati) Seeta Parmanand;<sup>72</sup> giving preference to Indian owned/controlled advertising agencies for advertisements by Railways, Government companies, etc., moved by Shrimati Violet Alva;<sup>73</sup> full mechanisation of coal and ore port on the West Bank of lower Hooghly, moved by Prof. Humayun Kabir;<sup>74</sup> appeal to governments in world to suspend nuclear tests, moved by Shri Mulka Govinda Reddy;<sup>75</sup> appointment of a committee to enquire into procedures for sanctioning exhibition of films, moved by Shri S.B. Bobdey<sup>76</sup> (Khosla Committee); abolition of privy purses and privileges of ex-rulers, moved by Shri Banka Behary Das<sup>77</sup> (Constitution Amendment Bill for the purpose fell in the Rajya Sabha; later it was re-introduced and passed); advertisement to Indian owned/controlled advertising agencies moved by Shri Joachim Alva<sup>78</sup> (this was in furtherance of the earlier resolution moved by Shrimati Violet Alva); improvement of urban slums, moved by Shrimati Monika Das;<sup>79</sup> appealing to world community to stop blood-shed in Afghanistan, moved by Shri Chaturanan Mishra;<sup>80</sup> atrocities on women, moved by Shri Viren J. Shah.<sup>81</sup>

The discussion need not be reopened after the mover of a private member's resolution had replied to the discussion. On 24 March 1995, after the discussion on a private member's resolution regarding measures for tackling increasing crimes in the country, particularly against women, the mover of the resolution, Shri Viren J. Shah replied to the debate. Soon after that, Shri V. Narayanasamy rose to speak on the resolution. But the Vice-Chairman said that the member could not make a speech after the resolution had been replied to. Even as the member insisted on speaking, the Vice-Chairman said that it was not the convention of the House to reopen discussion at the time of putting the resolution to vote. But the

member insisted on his right to speak and referred to rules 154-166. Ruling out his argument, the Vice-Chairman observed:

I have already ruled...that after the mover of the resolution has replied I have not allowed..I will not allow anybody. No rule permits me to reopen the issue. The rule is clear.<sup>82</sup>

#### B. Government resolutions

There are no separate rules regulating the procedure for Government resolutions. Government resolutions are distinguished from private members' resolutions in some important respects. A notice for a resolution given by a member of the Government, i.e., a Minister comes under the category of Government resolutions. They are not subject to the procedure of draw of lot unlike private members' resolutions. No period of notice as such has been prescribed for Government resolutions though in actual practice Ministers give notice of their resolutions much in advance of the dates on which the resolutions are proposed to be taken up for discussion in the House. Besides, private members' resolutions are taken up only on fixed days and at fixed hours as per the rules. Government resolutions can be taken up on any day allotted for Government business. Barring these special features, Government resolutions are generally subject to the same rules as the private members' resolutions. After a notice for resolution, is given by a Minister, and admitted by the Chairman, it is published in the Parliamentary Bulletin under the heading Government resolution. The time for discussion of a Government resolution is recommended by the Business Advisory Committee and the date therefore is fixed in consultation with the Leader of the House.<sup>83</sup> The resolution may be moved by the Minister in whose name it stands or in his absence by any other Minister on his behalf. A Government resolution may be discussed along with the consideration of a Government Bill<sup>84</sup> or any other item [For instance, resolution on Railway Convention Committee's report is discussed along with Railway Budget or Appropriation (Railways) Bill].<sup>85</sup>

A Government resolution takes precedence over a motion moved by a member as far as voting is concerned, even if both have been discussed together. On 26 April 1989 while discussing a statutory resolution regarding approval of President's Rule in Karnataka and also the motion recommending recall of Governor of Karnataka together, the Deputy Chairman put the resolution to vote first. On objection, the Deputy Chairman ruled:

The resolution and the motion were discussed together but the resolution was moved by the Government. So it has to be voted first and the motion was for a different thing and not the same thing.<sup>86</sup>

Government resolutions are generally for the following purposes:

(i) *Resolutions for approving international treaties, conventions or agreements*

Under the Constitution, the Government of India has power to enter into treaties and agreements with foreign countries and implement any treaty, etc.<sup>87</sup> It is not constitutionally incumbent on the Government of India to obtain approval of Parliament before a treaty or an international agreement is ratified by Government. This is left to be regulated by Parliament by law.<sup>88</sup> Legislation would be required to give effect to a treaty in the following cases:

- (a) where it provides for money to a foreign power<sup>89</sup> which must be withdrawn from the Consolidated Fund of India;
- (b) where the treaty affects the justiciable rights of a citizen of India;<sup>90</sup>
- (c) where it requires the taking of property, life or liberty of a citizen or the imposition of a tax, which can be done only by legislation.<sup>91</sup>

Outside these exceptional cases, it is competent for the Executive to enter into treaties. An amendment of the Constitution itself would be necessary to cede Indian territory to a foreign State, by reason of article 1 of the Constitution.<sup>92</sup>

Occasionally, however, Ministers table resolutions for the purpose of getting parliamentary approval of international agreements and conventions or their ratification by the Government of India. There have been instances of conventions or treaties having been approved by Parliament by Government resolutions. For instance, Berne Convention for the protection of literary and artistic Works;<sup>93</sup> Hague Convention on protection of cultural property in the event of armed conflict;<sup>94</sup> and Universal Copyright Convention<sup>95</sup> were approved by Parliament by passing resolutions, whereas the Tashkent Declaration was discussed on a Government motion which was adopted with an amendment approving the stand of the Government in the matter.<sup>96</sup> The Treaty of Peace, Friendship and Co-operation between India and USSR was discussed on a motion on a statement made by the Government in the matter earlier.<sup>97</sup>

(ii) *Resolutions declaring or approving certain policies of the Government*

A Government resolution may seek to record approval of the House to an act or policy of the Government. On many occasions such resolutions are brought forward, discussed and adopted in the Rajya Sabha.

A resolution was moved by the Prime Minister, Shri Jawaharlal Nehru, for the approval of the House to the principles, objectives and

programmes of development contained in the First and Second Five Year Plans;<sup>98</sup> resolutions have also been moved for the approval of Language Policy,<sup>99</sup> National Health Policy,<sup>100</sup> National Policy on Education and programme of action thereon,<sup>101</sup> National Housing Policy,<sup>102</sup> Agriculture Policy,<sup>103</sup> and creation of a Central Road Fund,<sup>104</sup> etc.

Similarly, resolutions expressing reaction of the Government towards incidents of national, international and humanitarian significance have also been brought forward before the House and adopted.

After Chinese aggression, a resolution was moved on 8 November 1962 and adopted on 13 November 1962, expressing determination of the people to drive out the aggressor from the sacred soil of India.<sup>105</sup> A resolution was moved by the Minister of State in the Ministry of External Affairs condemning and denouncing South Africa's apartheid policies, which was adopted.<sup>106</sup> Similarly, the Leader of the House and Minister of External Affairs moved a Government resolution on 2 March 2001, condemning the intent of the *Taliban* in Afghanistan to destroy two thousand year old statues of Buddha and the Buddhist shrines in Bamiyan which was unanimously adopted by the House.<sup>107</sup> A Government resolution expressing concern and anguish over the storming of the estate and precincts of the State legislature of Orissa by a mob of persons allegedly belonging to the VHP and the Bajrang Dal, and condemning the incident was moved on 18 March 2002, which was adopted.<sup>108</sup> During 228<sup>th</sup> Session, on 15 March 2013, the House unanimously adopted the resolution regarding rejection of resolution passed by Pakistan's National Assembly on 14 March 2013 and rejected any interference in the internal affairs of India. The House also reiterated that the State of Jammu and Kashmir including the territory under illegal occupation of Pakistan is and shall always be an integral part of India.<sup>109</sup>

### (iii) *Resolutions approving recommendations of Committees*

Sometimes resolutions are brought forward by the Government for approval of the House to the recommendations contained in the reports of certain committees. For example, the recommendations of the Railway Convention Committee are invariably approved by a resolution brought forward by the Minister of Railways.

## C. **Statutory resolutions**

Resolutions tabled in pursuance of a provision in the Constitution or an Act of Parliament are termed statutory resolutions. Either a Minister or a private member may give notice for such resolutions. The terms of the statutes themselves lay down whether a particular action thereunder should

be taken by means of a motion or resolution. If it is required to be taken by a motion, then it is a statutory motion; if the statute provides for moving of a resolution for a particular matter, it is termed a statutory resolution. Certain enactments expressly require the Government to bring forward a resolution within a specified period of time.

Under the Customs Tariff Act, 1975, the Central Government has to seek approval of Parliament for a notification regarding increase in protective duty, by a resolution moved within a period of fifteen days beginning with the day on which the notification is laid on the Table of Parliament.<sup>110</sup>

Under the Official Languages Act, 1963, a resolution for the constitution of a Committee was brought before Parliament, after ten years from the date on which Section 3 of the Act came into force<sup>111</sup> (Section 3 of the Act came into force on 26 January 1965, and the resolution was moved and adopted in the House on 24 July 1975).<sup>112</sup>

The mover of a resolution should be present in the House when it is being discussed. On 10 December 1974, the mover of a statutory resolution seeking disapproval of the Maintenance of Internal Security (Amendment) Ordinance was not present when the resolution seeking approval of the House on the Ordinance was being discussed. The Vice-Chairman observed:

I cannot restrain myself from observing that the mover of the resolution is not present here nor anyone who appended their names to the resolution is present here. As the Opposition wants the Ministers to be present, when somebody moves a resolution, he should also be present to hear the debate.<sup>113</sup>

There is no particular period for moving a statutory resolution unless the Constitution or the Act of Parliament under which it is tabled so prescribes. For instance, articles 61, 67, 90 and 94 of the Constitution provide for at least 14 days' notice of the intention to move resolutions for removal of the President, Vice-President, Deputy Chairman, Rajya Sabha and Speaker and Deputy Speaker, Lok Sabha, respectively. After a statutory resolution is admitted, it is published in the Parliamentary Bulletin Part-II under the heading 'Statutory Resolution', for information of the members. It is not subject to draw of lot, even if a notice is given by a private member. Time for its discussion is provided by the Government from the time allocated for Government business. This is done on the recommendation of the Business Advisory Committee. Statutory resolutions which are moved under the Constitution or Acts of Parliament are mentioned below:

*Resolutions under the Constitution*

The Constitution provides for resolutions to be moved in either House of Parliament for the impeachment of the President<sup>114</sup> and in the Council of States for the removal of the Vice-President<sup>115</sup> and removal of the Deputy Chairman of Rajya Sabha.<sup>116</sup> No occasions have so far arisen for moving such resolutions. Besides these, resolutions can also be moved for disapproval of Ordinances promulgated by the President,<sup>117</sup> legislation by Parliament with respect to any matter enumerated in the State List,<sup>118</sup> creation of All-India Services,<sup>119</sup> approval of Proclamation of Emergency,<sup>120</sup> Proclamation in case of failure of constitutional machinery in a State,<sup>121</sup> and Proclamation in case of Financial Emergency.<sup>122</sup>

(a) Resolution for disapproval of an Ordinance (article 123)

As per the practice, a member is entitled to give notice of such a resolution as soon as an Ordinance is promulgated, irrespective of the fact whether the summons for a session has been issued or not. However, the admitted resolution is published in the Parliamentary Bulletin Part-II a few days in advance of the commencement of a session. All the notices are admitted and arranged in point of time of their receipt in the names of the members from whom they are received.

Generally, a notice given by a member for a statutory resolution for disapproving an Ordinance and the Government Bill replacing such an Ordinance are discussed together.

On an occasion, after a lengthy procedural discussion, the House agreed to take up a disapproval resolution regarding Maintenance of Internal Security Ordinance, 1971, and the related Bill, separately.<sup>123</sup>

Names of all members from whom notices are received are included in the list of business. The resolution is moved first and then the Minister concerned moves for the consideration of the related Bill and thereafter, a combined discussion takes place on both. At the end of the discussion, generally the mover of the resolution replies first and then the concerned Minister. The resolution is then put to vote first, because if the resolution is adopted, it means disapproval of the Ordinance and the Bill automatically falls through. If the resolution is negatived, the motion for consideration of the Bill is then put to vote and further stages of the Bill are proceeded with.

On an occasion, resolution for the disapproval of the Code of Criminal Procedure (Amendment) Ordinance, 1991, was adopted by a casting vote of the Vice-Chairman and no further proceedings were taken on the related Bill which was also discussed along with the resolution.<sup>124</sup>

However, on an earlier occasion, Rajya Sabha discussed together a resolution disapproving the Banking Service Commission (Repeal) Ordinance, 1977, moved by a member and the motion for consideration of the related Bill as passed by Lok Sabha moved by the concerned Minister. The resolution was adopted. This would have the effect of rejection of the motion. But the motion was also put separately and rejected.<sup>125</sup> Later, a joint sitting of both Houses was held to pass the Bill.

Similarly, Rajya Sabha discussed together a resolution disapproving the Prevention of Terrorism (Second) Ordinance, 2001, moved by a member and the motion for consideration of the related Bill as passed by Lok Sabha moved by the concerned Minister. The resolution was adopted. This would have the effect of rejection of the motion. But the motion was also put separately and rejected.<sup>126</sup> Therefore, a joint sitting of both Houses was held on 26 March 2002, and the Bill was passed.

(b) Resolution for legislation by Parliament on a State subject (article 249)

Chapter 1 has already traced the background of article 249 which confers on the Rajya Sabha a special power in the matter of passing a resolution for legislation by Parliament with respect to a matter enumerated in the State List. That article provides that if the Rajya Sabha declares by resolution supported by not less than two-thirds of the members of the House present and voting that, it is necessary or expedient in the national interest, that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it is lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.<sup>127</sup> Such a resolution remains in force for a period not exceeding one year as may be specified therein. However, the Rajya Sabha may pass successive resolutions for the continuance in force of the original resolution, but each such resolution has a limited duration of one year only.<sup>128</sup> A law made by Parliament by virtue of the powers conferred on it by the resolution ceases to have effect on the expiration of six months after the resolution ceases to be in force, except in respect of things done or omitted to be done before the expiration of the said period.<sup>129</sup>

Article 249 was first invoked in 1950 for the effective control of 'black-marketing' by the Provisional Parliament which passed a resolution on 12 August 1950. The Rajya Sabha passed the following resolution with requisite majority on 22 July 1952:

Whereas the Provisional Parliament declared by resolution passed on the 12 August 1950, in pursuance of clause (1) of article 249 of the

Constitution as then in force (which resolution is hereinafter referred to as the said resolution) that it was necessary in the national interest that the Provisional Parliament should for a period of one year from the 15 August 1950, make laws with respect to the following matters enumerated in the State List, namely:

- (i) Trade and commerce within the State subject to the provisions of Entry 33 of List-III; and
- (ii) Production, supply and distribution of goods subject to the provisions of Entry 33 of List-III;

And whereas by another resolution passed by the Provisional Parliament on the 7 June 1951, the said resolution was continued in force for a further period of one year from the 15 August 1951;

And whereas it is necessary in the national interest that Parliament should for a further period of one year from the 15 August 1952, continue to have power to make laws with respect to the matters aforesaid;

This Council do resolve, in pursuance of the proviso to clause (2) of the said article, that it approves the continuance in force of the said resolution for a further period of one year from the date on which it would, but for this resolution, cease to be in force.<sup>130</sup>

The Provisional Parliament enacted the Essential Supplies (Temporary Powers) Amendment Act, 1950, and the Supply and Prices of Goods Act, 1950 in pursuance of the resolution.

Again in 1951, the Provisional Parliament passed the following resolution:

Whereas for the better management and disposal of certain evacuee property, it is necessary to make laws providing for the separation of the interests of evacuees from those of non-evacuees, and such laws may, *inter alia*, relate in certain matters enumerated in the State List;

This House do resolve in pursuance of article 249 of the Constitution, as adopted by the President under article 392 thereof present in force, that it is necessary in the national interest and as at that Parliament should, for a period of one year from the 15 June 1951, make laws with respect to the following matters enumerated in Entries 18 and 30 of the State List namely:

Rights in or over land; transfer and alienation of agricultural land; money-lending and money-lenders and relief of agricultural indebtedness.<sup>131</sup>

Pursuant to the resolution, the Provisional Parliament enacted the Evacuee Interest (Separation) Act, 1951, to resolve the problem relating to rehabilitation and settlement of displaced persons from Pakistan.

After nearly 35 years during which this article remained dormant, it was invoked again in August 1986. On 13 August 1986, Rajya Sabha passed, with the requisite majority, the following resolution:

Whereas the situation in Punjab and other areas in the north-west borders of India has become extremely grave due to infiltration from across the north-western borders and unabated terrorist activities in the border areas;

This House, therefore, do resolve, in pursuance of article 249 of the Constitution, that it is necessary in the national interest that Parliament should, for a period of one year from 12 August 1986, make laws with respect to the following matters, namely :

Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof in aid of the civil power) [Entry 1 of List-II—State List];

Police (including railway and village police) subject to the provisions of Entry 2A of List-1 [Entry 2 of List-II—State List];

Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions (Entry 4 of List-II—State List);

Offences against laws with respect to any of the matters in this List (Entry 64 of List-II—State List);

Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List (Entry 65 of List-II—State List);

Fees in respect of any of the matters in this List, but not including fees taken in any court (Entry 66 of List-II—State List).<sup>132</sup>

No legislation, however, was passed by Parliament, in pursuance of the above resolution.

#### *Views of Sarkaria Commission on article 249*

In the context of Centre-State relations, the Sarkaria Commission had an occasion to consider a suggestion for deletion of this article. The Commission, however, observed:

There are three in-built safeguards against the misuse of the power conferred by this article. The first is that Parliament can assume

jurisdiction only when two-thirds of the members of the Rajya Sabha present and voting pass a resolution to that effect. Secondly, the resolution is required to specify the matter enumerated in the State List, with respect to which Parliament is being authorised to legislate in the national interest. Some Entries in List-II comprise a cluster of several matters. It is, therefore, open to the Rajya Sabha to limit the resolution specifically with respect to any one of those matters (which may even be a particular aspect of a matter) in an Entry. Thirdly, a resolution passed under clause (1) of the article remains in force for a period not exceeding one year as may be specified therein unless extended for a further period not exceeding one year by a fresh resolution. A law passed in pursuance of clause (1) ceases to have effect on the expiry of six months after the resolution has ceased to be in force. It is true that these safeguards are not fool-proof. But the basic fact that, in any case, the power is to be exercised by Parliament which consists of the representatives of the people from all the States, is itself a guarantee against its misuse. There is no allegation that, when this power was exercised in 1950-51 to pass the aforesaid temporary statutes, it worked to the disadvantage of the States or the interests of their people. In the recent case, power was conferred on Parliament to legislate with respect to certain matters in the State List to meet a situation on the north-western border, which, according to Rajya Sabha resolution under article 249, was "extremely grave."

The article provides a simple and speedy method for effective handling, at the national level, of urgent problems of an extraordinary nature which temporarily assume national significance. The article may also be availed of in a situation in which speed is the essence of the matter, and invocation of the emergency Provisions in articles 352 and 356 is not considered necessary or expedient. Compared with article 249, the procedure provided in article 252 is very cumbersome and time-consuming. It cannot, therefore, be reasonably said that article 252 provides an equally efficacious or a better alternative to article 249. On the basis of evidence before us, therefore, it is not possible to say that this extraordinary power has been misused. It has been exercised with due restraint in extraordinary situations for temporary periods which have not been indefinitely extended by successive resolutions.<sup>133</sup>

(c) Resolution for creation of an All-India Service (article 312)

If Rajya Sabha declares by a resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest to do so, Parliament may by law provide for the creation of one or more all-India services common to the Union and States.<sup>134</sup> Under this article Rajya Sabha adopted a resolution on 6 December 1961, for the creation of Indian Service of Engineers, Indian Forest Service

and Indian Medical and Health Service.<sup>135</sup> Pursuant to this resolution, Parliament amended the All-India Services Act, 1951, to incorporate these services in the statute. Again on 30 March 1965, Rajya Sabha passed a resolution for the creation of the Indian Agricultural Service and the Indian Educational Service.<sup>136</sup>

Incidentally, it may be mentioned that a private member had also given notice of a statutory resolution under article 312 for the creation of the above mentioned Services (save the Indian Agricultural Service) as also the Indian Judicial Service. The resolution was admitted during two sessions but could not come up for discussion.<sup>137</sup>

(d) Resolution for approval of Proclamation of Emergency (article 352)

If the President is satisfied that a grave emergency exists whereby the security of India or any part of the territory thereof is threatened whether by war or external aggression or armed rebellion he may by Proclamation make a declaration to that effect in respect of the whole of India, or of such part of the territory thereof as may be specified in the Proclamation.<sup>138</sup> Every Proclamation has to be laid before each House of Parliament and, except in the case of a Proclamation revoking a previous Proclamation, ceases to operate at the expiration of one month unless before the expiration of that period, it has been approved by resolutions of both Houses of Parliament.<sup>139</sup>

If Lok Sabha is dissolved during the time of issue of the Proclamation or within one month thereof and Rajya Sabha approves the Proclamation by a resolution in the meantime, the Proclamation survives until thirty days from the date of the first sitting of Lok Sabha after its reconstitution.<sup>140</sup> The Lok Sabha can approve the Proclamation within thirty days by a resolution. A Proclamation so approved shall, unless revoked ceases to operate at the expiration of a period of six months from the passing of the second of the resolutions approving the Proclamation.<sup>141</sup> If and so often as a resolution approving the continuance in force of such a Proclamation is passed by both the Houses, the Proclamation, unless revoked, continues in force for a further period of six months.<sup>142</sup> If the dissolution of Lok Sabha takes place during any such period of six months, the Rajya Sabha can pass a resolution and thus the Proclamation can be continued until the Lok Sabha passes a resolution approving the Proclamation within thirty days from the first sitting after its reconstitution.<sup>143</sup> Thus, Rajya Sabha has been given special power in respect of approval of a Proclamation during the dissolution of Lok Sabha.

A resolution approving the Proclamation or its further continuance is required to be passed by either House of Parliament by a majority of the

total membership of that House and by a majority of not less than two-thirds of the members of the House present and voting.<sup>144</sup>

Article 352 has been substantially amended by the Constitution (Forty-fourth) Amendment Act, 1978. Among other things, the amendment provides that the Proclamation has to be approved within a period of one month (instead of two months originally provided in the Constitution) by resolutions of both Houses of Parliament and that such resolutions have to be passed by a special majority as mentioned above (instead of a simple majority as stipulated before). It has also been provided that for the continuance in force of the Proclamation of Emergency, approval by resolutions of both the Houses is required every six months. Another significant provision made is that power has been given to the Lok Sabha to disapprove a Proclamation of Emergency; and one-tenth members of that House may also by a notice requisition a special sitting of the Lok Sabha for considering the continuance of a Proclamation of Emergency.

There have been three occasions when Proclamations of Emergency were issued under article 352. The Proclamation issued on 26 October 1962 was laid on the Table of both Houses of Parliament on 8 November 1962. It was approved by resolutions of the Rajya Sabha and the Lok Sabha on 13 and 14 November 1962, respectively. The Proclamation issued on 3 December 1971, was laid on the Table of both Houses of Parliament on 4 December 1971. It was approved by resolutions passed by the Rajya Sabha and the Lok Sabha on the same day. The Proclamation issued on 25 June 1975, was laid on the Table of both Houses of Parliament on 21 July 1975. It was approved by the Rajya Sabha on 22 July 1975 and by the Lok Sabha on 23 July 1975.

- (e) Resolution for approval of Proclamation on failure of constitutional machinery in a State (article 356)

#### *Laying of the Proclamation*

If the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution, the President may issue a Proclamation assuming to himself all or any of the functions of the Government of the State and to make other incidental and consequential provisions for the purpose.<sup>145</sup> Any such Proclamation may be revoked or varied by a subsequent Proclamation.<sup>146</sup> Every Proclamation has to be laid before each House of Parliament.<sup>147</sup>

When the Proclamation under article 356 in relation to Orissa was being placed on the Table, some members raised an objection that the

Proclamation could not be laid on the Table since it had lapsed. Thereupon the Chairman ruled:

...the Constitution requires every Proclamation to be laid on the Table of the House. What is its validity, when will it expire, these are matters which cannot be discussed at this stage. So far as laying it on the Table is concerned, that is the requirement of the Constitution and no one can challenge it.<sup>148</sup>

While laying a Proclamation on the Table, there is no requirement to lay a copy of the Governor's report, where the President has acted on such report.

When the Minister of Home Affairs laid on the Table a copy of the Proclamation in respect of Kerala, a demand was made, on a point of order, that the Governor's report should be laid on the Table along with the Proclamation. The Chairman observed that—

- (a) as per the Home Minister's statement, there was no constitutional obligation to lay on the Table the documents on which the Proclamation was based;
- (b) the Minister would give adequate information relevant to the topic; and
- (c) Parliament was supreme but bound by the rules it itself had made; there were several rules which stated that the documents of a secret nature whose publication was not consistent with public interest need not be placed.

The Chairman, therefore, stated that he could not compel the Minister to place a document on the Table of the House when he felt that its publication was not consistent with public interest.<sup>149</sup>

Again, on a later occasion, on a point of order, that the Governor's report should be laid on the Table along with the Proclamation, the Chair ruled that if the Government wished to place it on the Table, he had no objection. But he would not direct the Government to place it on the Table of the House because, in his view, the law did not require it to be put on the Table.<sup>150</sup>

During the resolution regarding extension of President's rule in Punjab, a demand was made for laying of Governor's report on the Table. However, the matter was not pursued in the absence of any precedent.<sup>151</sup>

As per the practice, the Governor's report is ordinarily laid on the Table, along with the initial Proclamation; although, on a few occasions, a summary of the report has only been laid instead of the full report.<sup>152</sup>

*Approval of Proclamation*

A Proclamation, unless revoked earlier by the President, ceases to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both the Houses of Parliament.<sup>153</sup>

If any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued when the Lok Sabha is dissolved or the dissolution of the Lok Sabha takes place during the period of two months, and if the Rajya Sabha approves the Proclamation by a resolution but the Lok Sabha has not done so before the expiration of that period, the Proclamation ceases to operate at the expiration of thirty days from the date on which the Lok Sabha first sits after its reconstitution, unless before the expiration of that period, Lok Sabha also passes a resolution approving the Proclamation.<sup>154</sup>

Under this provision, the Rajya Sabha held special sessions on two occasions – first, to approve the continuance in force of the Proclamation in respect of Tamil Nadu and Nagaland and second, to approve the Proclamation in respect of Haryana. On both the occasions, the Lok Sabha was under dissolution.<sup>155</sup>

The form of the resolution is: That this House approves the Proclamation issued by the President on...(date), under article 356 of the Constitution, in relation to the State of...(name).<sup>156</sup>

The form of the resolution continuing the Proclamation is: That this House approves the continuance in force of the Proclamation issued by the President on...(date), under article 356 of the Constitution, in relation to the State of...(name) for a further period of six months with effect from the...(date).<sup>157</sup>

*Amendments to resolution*

There is no provision to give conditional approval to the Proclamation.

On an occasion, when a member wanted to move an amendment to a resolution in respect of the Proclamation in relation to West Bengal that “While so approving, the House directs the Government to hold mid-term election not later than June,” it was ruled out of order by the Chair as beyond the scope, with the observation, “You can either approve this resolution or reject it, but you cannot expand it.”<sup>158</sup>

However, amendments have been admitted and moved to the resolution approving the Proclamation in the Rajya Sabha so as to attach

some condition to the resolution or express an opinion, or limit its duration. Some of the instances of amendments which have been moved are:

To the resolution approving the Proclamation (i) in respect of PEPSU, amendments were moved that, at the end of the resolution, the following be added, namely, “but regrets the delegation of these functions to the Rajpramukh of PEPSU;” “but enjoins the Government to hold general elections in the State within three months from now;<sup>159</sup> (ii) in respect of Andhra, amendments were moved for substitution of the word “approves”, with the words “considers unwarranted;” a substitute resolution was also moved that “this House having considered the President’s Proclamation is of the opinion that sufficient efforts should have been made by the Governor of Andhra to call upon the Leader of the Opposition in Andhra Assembly to form a Government before the President assumed to himself all the functions of the Governor of Andhra<sup>160</sup> (the amendments were negatived); (iii) in respect of Punjab a member moved an amendment to limit the continuance of a Proclamation “upto the 31 December 1989” (instead of six months);<sup>161</sup> on another occasion, a member sought to add a paragraph at the end of the resolution: “That this House further resolves that the general elections to the Punjab Assembly be held not later than the 1 January 1991;”<sup>162</sup> (iv) in respect of Jammu and Kashmir, a member moved an amendment: “That the House further resolves that no steps be taken to revive the State Legislative Assembly or to hold fresh elections till current terrorist activities are fully curbed;”<sup>163</sup> another member moved an amendment to the effect that the elections to the Assembly be held before November 1, 1990;<sup>164</sup> another amendment sought to restrict the period of Proclamation to three months<sup>165</sup> (instead of six months); yet another amendment wanted a paragraph to be added to the resolution that “the election to the Jammu and Kashmir Legislative Assembly as well as to the six seats in the Lok Sabha from that State shall be held within four months.”<sup>166</sup>

#### *Disapproval of resolution*

A resolution seeking disapproval of the Proclamation is also inadmissible as there is no provision under article 356 for such a resolution. The House, if it desires, can vote down the resolution for the approval of the Proclamation. As observed by the Chairman in a ruling:

As is well-known, the Constitution itself makes a difference between Ordinance and Proclamation. Under article 123, Ordinances may be subjected to disapproval resolutions but no corresponding provision is made under article 356. A motion disapproving could not, therefore, be admitted.<sup>167</sup>

On an occasion, when a set of papers regarding the Proclamation issued under article 356 of the Constitution in relation to the State of

Jammu and Kashmir, was laid on the Table of the House, a member pleaded that just as a statutory resolution seeking approval of such a Proclamation in relation to a State was brought by the Government, members should also have a right to move a resolution for disapproval of the Proclamation. The member, therefore, requested the Chairman to “examine this possibility that hereafter a member of the House also should have an opportunity, and an opportunity by right, to raise the matter so that it should not be left to the executive entirely at their free will”. The Chairman ruled that if the Government did not want to get the Proclamation approved, they need not move the resolution and if they did not move the resolution the Proclamation lapsed. Therefore, there was nothing for discussion. It was only when the Proclamation was continued that there was something for discussion in the House.<sup>168</sup>

#### *Motion for revocation of Proclamation*

In view of the constitutional provision, therefore, a notice of a resolution for disapproval of a Proclamation, is not admitted. However, a member may give notice of a motion recommending to the President to revoke the Proclamation. Such motions have been admitted on the ground that the Constitution itself contemplates the revocation of a Proclamation by the President.<sup>169</sup>

On an occasion, a motion was also admitted regarding revocation of a Proclamation in respect of West Bengal before the Proclamation was laid on the Table.<sup>170</sup>

Earlier there used to be a practice to include in the list of business motions for revocation of Proclamations for discussion along with the related Government resolutions for their approval. Sometimes, even cognate matters were also listed for a combined discussion. The following are some such important instances:

A motion for revocation of the Proclamation in respect of Bihar was admitted<sup>171</sup> and included in the list of business along with Government resolution seeking approval of the Proclamation<sup>172</sup> (The member who had given notice of the motion was, however, not present); a motion for revocation of the Proclamation in respect of Rajasthan was discussed along with the Government resolution on the subject;<sup>173</sup> a motion regarding revocation of the Proclamation in respect of West Bengal was discussed along with Government resolution approving the Proclamation;<sup>174</sup> a motion disapproving the action of the Governor of Karnataka and recommending his recall was discussed along with the statutory resolution approving the Proclamation in respect of Karnataka (The resolution was adopted and the motion was negatived);<sup>175</sup> a motion for revocation of the Proclamation in respect of Tamil Nadu

was listed along with the Government resolution approving the Proclamation thereon<sup>176</sup> (the motion was not moved as the opposition had walked out); and an omnibus motion recommending to the President to revoke the Proclamations in relation to nine States was discussed along with nine resolutions for approval of the Proclamations (the motion was negative and the resolutions were adopted).<sup>177</sup>

Following the above mentioned practice, when the motions recommending revocation of the Proclamations in respect of Uttar Pradesh, Madhya Pradesh, Rajasthan and Himachal Pradesh were listed for discussion along with the resolutions for their approval on 21 December 1992, objection was taken by some members to this practice. After the adoption of the resolutions, the Chair did not put the motions to the House declaring that they became infructuous.<sup>178</sup>

In this context, incidentally, some unusual precedents may also be mentioned:

On an occasion, along with the Government resolution approving the Proclamation in respect of Haryana, a member gave the notice for the following motion which was also discussed:

“That this House condemns the unconstitutional action by the Governor of West Bengal in dismissing the United Front Government in that State and illegally installing a Government headed by Dr. P.C. Ghosh, and thus brutally trampling under feet the system of parliamentary democracy.”

The resolution was adopted and the motion was negative.<sup>179</sup>

Once a member raised an interesting question of privilege. He referred to an item in the list of business of the Lok Sabha regarding the introduction of the Andhra State Legislature (Delegation of Powers) Bill, 1954, in that House. The member contended that the notice had been issued even before the President’s Proclamation had been discussed and approved by the Rajya Sabha. He submitted that as anticipating the decision of the Rajya Sabha on the President’s Proclamation amounted to a violation of the Constitution and a breach of the privilege of the House, the matter should be referred to the Committee of Privileges. The Chairman gave the following ruling:

Every Proclamation issued under clause (1) of article 356 has to be approved by both Houses of Parliament, but the Bill in question is sought to be introduced in the Lok Sabha in pursuance of the provision contained in article 357(1). This article says: “Whereby a Proclamation issued under clause (1) of article 356...”—it does not say, “Whereby a Proclamation issued by the President and

approved by the two Houses.” It merely says: “Whereby a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent for Parliament to confer on the President the power of the Legislature of the State to make laws etc.” It will be seen from this article that the approval of the Proclamation by Parliament is not a necessary prerequisite to the conferring of the legislative power on the President. This is further apparent from the fact that a Proclamation may remain in force under article 356(3) of the Constitution for two months even without the approval by Parliament. The Proclamation was issued on November 15, and so till January 15, it can be held in force even without the approval of Parliament, and the right to confer power to legislate may be exercised even though the approval of the Legislature to the Proclamation has not been obtained during this period. Thus there is no violation of the Constitution when this Bill is proposed to be introduced in Parliament even before the approval of the Proclamation by both Houses. All the same, it may be argued that though it is legal, it may not be expedient, and a convention could be set up. It may be said that it will be constitutionally more appropriate to wait until the Proclamation has been approved and then introduce the Bill contemplated. I do not think that even of this constitutional propriety there has been a violation.

I sent for the notice of the Lok Sabha. It does not specify the hour when it is to be introduced. It is out of consideration for the resolution approving the Proclamation to be passed by this House that the hour has not been specified. So, what the Home Minister proposes to do is to move for leave to introduce the Bill today in the fond hope and expectation that he had that our House would get the resolution through as soon as possible and not have a very long and elaborate discussion. But we always take a long time. All the same, he has not specified the hour when it is to be introduced there.

Therefore, I feel that the motion for the introduction of the Bill included in the list of business of the Lok Sabha does not involve any disrespect to the Rajya Sabha, and there is no violation of the Constitution and no violation of any propriety in the matter. He merely waits for the passing of the resolution approving the Proclamation in this House before introducing the Bill in the other House and so no question of privilege is involved.<sup>180</sup>

On an occasion, a point of order was raised whether the Supplementary Demands for Grants for a State could be laid on the Table before the Proclamation in respect thereof was approved by Parliament. The Vice-Chairman held that as soon as a

Proclamation was issued, power was assumed for all the functions of the State Government, unless within the period of two months that Proclamation was not approved by Parliament. The Supplementary Demands for Grants were thereafter laid on the Table.<sup>181</sup>

#### *Maximum duration of a Proclamation*

A Proclamation approved by both Houses of Parliament unless revoked, ceases to operate on the expiration of a period of six months from the date of issue of the Proclamation. However, if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation, unless revoked, continues in force for a further period of six months from the date on which it would otherwise have ceased to operate but no such Proclamation can in any case remain in force for more than three years.<sup>182</sup> If the dissolution of the Lok Sabha takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation is passed by the Rajya Sabha during the said period, the Proclamation ceases to operate at the expiration of thirty days from the date on which the Lok Sabha first sits after its reconstitution unless before the expiration of the said period of thirty days, a resolution approving the continuance in force of the Proclamation has also been passed by the Lok Sabha.<sup>183</sup>

However, a resolution with respect to the continuance in force of a Proclamation beyond the expiration of one year from the date of its issue cannot be passed by either House of Parliament unless a Proclamation of Emergency is in operation in the whole of India or, as the case may be, in the whole or any part of the State, at the time of the passing of such resolution, and the Election Commission certifies that the continuance in force of the Proclamation approved during the period specified in such resolution is necessary on account of difficulties in holding general election to the Legislative Assembly of the State concerned.<sup>184</sup>

#### *Delegation of Powers*

Approval of a Proclamation by both Houses of Parliament is generally followed by an Act of Parliament delegating certain powers to the President including power to make laws for the State concerned. Such an Act also provides that before making any law for the State, the President should, whenever he considers it practicable to do so, consult a parliamentary committee constituted for the purpose. Such a committee may include members of both Houses of Parliament belonging to that State. Such laws, called the President's Acts, are required to be laid before both Houses of

Parliament and Parliament is empowered to modify the same within a period of thirty days after they are so laid.

Several members had given notice of a motion seeking to disapprove the West Bengal (Prevention of Violent Activities) Act, 1970, a copy of which was laid on the Table of the House on 23 November 1970, under section 3(3) of the West Bengal State Legislature (Delegation of Powers) Act, 1970. The motion was admitted in the form of a resolution for repeal of the Act.<sup>185</sup> It was discussed and negatived on 17 December 1970.

The Lok Sabha adopted a resolution amending the Kerala University (Amendment) Act, 1966, on 12 April 1966 and the Rajya Sabha concurred with the resolution on 12 May 1966.<sup>186</sup>

A Proclamation declares that the powers of the Legislature of the State would be exercisable by or under the authority of Parliament. On account of this declaration, Parliament gets jurisdiction to pass Appropriation Bills for the withdrawal of moneys from the Consolidated Fund of the State concerned, and the papers which are required to be laid before the State Legislature are instead laid before Parliament.

#### *Appropriation of money out of Consolidated Fund by Ordinance*

For the appropriation of money for a State Administration which has been taken over by the President under a Proclamation issued by him, the Budget for that State, according to the existing practice, is not certified by Ordinance, the underlying principle being that no money can be spent out of the Consolidated Fund without the sanction of Parliament. Hence, if a contingency arises for passing an Appropriation Bill regarding such a State and the Rajya Sabha is not in session, the House might be required to be specially summoned for the purpose.

Rajya Sabha was summoned at short notice for its 33<sup>rd</sup> Session on 27 March 1961, for the purpose of Orissa Budget and related Bills consequent upon the imposition of the President's Rule in that State. The matter regarding calling the session at short notice was raised in the House on that day. The Minister of Law explained that one of the reasons was that the Budget for the State had to be prepared and printed and in the meantime the Rajya Sabha adjourned. There was an early precedent when the President had passed by Ordinance the Budget when the President's Rule was imposed in Travancore-Cochin in 1956. The view then taken was that though the Rajya Sabha was not in session, the Budget could be certified by Ordinance. The view later taken by the Government was that not a single pie should be spent from the Consolidated Fund without the sanction of Parliament. Hence the Rajya Sabha was called at short notice.<sup>187</sup>

(f) Resolution for approval of Proclamation of Financial Emergency (article 360)

If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part thereof is threatened, he may, by Proclamation make a declaration of financial emergency.<sup>188</sup> A Proclamation so issued shall be laid before each House of Parliament and may be revoked or varied by a subsequent Proclamation. It shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament. The Proclamation approved by Parliament shall be in operation until it is revoked by the President.<sup>189</sup> A Proclamation issued subsequently by the President revoking or varying the Proclamation of financial emergency in operation is not, however, required under the Constitution to be laid before each House of Parliament.

As in the case of Proclamations under articles 352 and 356, a Proclamation under article 360 could also be approved by the Rajya Sabha while the Lok Sabha is under dissolution and thus extend the life of the Proclamation.<sup>190</sup>

*Resolutions under Acts of Parliament*

Certain statutes provide that the rules or notifications made thereunder must be approved by resolutions of Parliament within a specified period and these rules have effect, in such modified form or cease to have effect, as Parliament may by virtue of the resolutions direct.

Under Customs Tariff Act, 1975, Central Government's Notification regarding levying of export duty on goods is required to be approved by both Houses of Parliament.<sup>191</sup> Accordingly, resolutions have been passed by the Rajya Sabha approving the notifications.<sup>192</sup>

Under the Salaries and Allowances of Ministers Act, 1952, draft rules made thereunder, after the amendment made in the Act in 1977 are required to be approved by Parliament before they come into force.<sup>193</sup>

Under this provision resolutions have been brought before the House for approval of draft of Ministers (Allowances, Medical Treatment and other Privileges) Amendment Rules.<sup>194</sup>

Under the Central Excise Tariff Act, 1985, Government resolution is required to be approved for increasing the basic excise duty leviable on certain commodities.<sup>195</sup>

When a State is under President's Rule, statutory resolutions are brought forward for certain purposes. For instance, Government resolutions were moved and adopted to accord approval for fixing maximum amount of loan which the concerned State Electricity Boards might have<sup>196</sup> under the Electricity (Supply) Act, 1948.<sup>197</sup>

**Effect or force of resolutions**

In respect of a resolution tabled in pursuance of a provision of the Constitution or a statute of Parliament, the precise phraseology and the words used therein are the deciding factor for the Government whether to implement the resolution or not. As regards a resolution moved by a private member, as may be seen from the private members' resolutions mentioned earlier, some have been implemented but many may not have been so implemented. In this context as well as in the context of a motion adopted by the Rajya Sabha on 10 August 1978, in regard to appointment of a Committee to go into allegations of corruption against family members of certain Ministers, a question had arisen as to the effect of such a resolution. From this point of view, resolutions may be divided into three categories, namely, resolutions which have the statutory effect; resolutions which the House adopts in the matter of control over its own proceedings; and resolutions which are mere expressions of opinion of the House.

The Statutory resolutions are moved under the Constitution or a statute of Parliament and have a binding effect since adopting such resolutions attract in law the consequences mentioned in the statutory provisions. Besides there are resolutions which are adopted by the House in relation to its proceedings and are something like law, which cannot be disobeyed as such. For instance, a resolution committing a contemner for breach of privilege. In this category also falls the resolution adopted by the Rajya Sabha on 15 November 1976, expelling a member from the House.

A large number of resolutions, however, fall into the category of expressions of opinion. As to the purpose and effect of such resolutions, it is stated that "they are generally used to test the feeling of the House with regard to proposals which are still indefinite or ahead of public opinion".<sup>198</sup> A constitutional authority has observed: "Private Members' Motions...enable the opinion of the House to be taken. The 'opinion' need not be representative,...they are thus of some value though the value is not great".<sup>199</sup>

Under the Constitution, the Rajya Sabha has no power of passing a vote of censure or no-confidence in the Government. On 17 August 1978, when, in the context of the motion adopted by the House on 10 August 1978, some members pressed for the implementation of the motion, the Chairman observed that the motion was a recommendation addressd to the Government and that the question of appointment of a Committee would depend on which of the two alternatives mentioned in the motion was acceptable to the Government.

In the circumstances a resolution adopted against the Government may have such force or effect as the Government itself may prefer to accept morally or politically in terms of its response to the opinion expressed by the House in such a resolution.

## NOTES AND REFERENCES

1. G.F.M. Campion, *An introduction to the Procedure of House of Commons*, 3<sup>rd</sup> Edn., London, Macmillan & Co. Ltd., 1958, p.172.
2. Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 24<sup>th</sup> Edn., p. 424.
3. R. 156.
4. R. 24.
5. R. 2(1).
6. R. 154.
7. See, for instance, Bn. (II), 20.10.1965, 3.11.1965 and 17.11.1965 for admitted lists of resolutions and Bn. (II), 21.10.1965, 4.11.1965 and 18.11.1965 for result of ballot of resolutions during the 54<sup>th</sup> Session, see also Bn. (II), 19.2.1966 for result of ballot of resolutions for the first allotted day i.e., 25.2.1966 during the 55<sup>th</sup> Session.
8. 2 Rpt., COR (adopted on 24.12.1981; and brought into effect from 15.1.1982).
9. R. 26.
10. R. 541.
11. Bn. (II), 18.4.1972.
12. R. 155.
13. LoB, 5.8.1994, 28.4.1995 and 25.8.1995.
14. *Ibid.*, 30.3.1990, 25.5.1990, 6.3.1992 and 19.3.1993.
15. *Ibid.*, 22.4.1994, 19.8.1994, 16.12.1994, 28.4.1995 and 26.5.1995.
16. *Ibid.*, 16.12.1994.
17. *Ibid.*, 24.8.1990.
18. R. 157(i).
19. R. 157(ii).
20. R. 157(iii).
21. R. 157(iv).
22. R. 157(v).
23. R.S. Deb., 13.3.1980, c. 124-29.
24. Bn. (I), 6.5.1983.
25. *Ibid.*, 29.12.1989.
26. R. 165(i).
27. R. 165(ii).
28. R. 228.
29. R. 158.
30. R. 28(2).
31. R. 28(1).
32. C.S. Deb., 30.4.1954, c. 4776; and R.S. Deb., 10.12.1954, c. 1486.
33. R.S. Deb., 6.5.1994, c. 443; 5.8.1994, c. 407; 19.8.1994, c. 363; 24.3.1995, c. 543; 10.12.1999, c. 249; 20.4.2000, c. 197-245; and 5.5.2000, c. 235-53.
34. *Ibid.*, 31.8.2001, p. 451; 26.08.2004, p. 239; 10.12.2004, p. 280; 16.12.2005, pp. 283-85; 19.5.2006, p. 327; 18.8.2006, p. 347; 24.7.2009, p. 259; 11.12.2009, p. 266; 7.5.2010, p. 242; 21.8.2010, p. 74; 4.3.2011, p. 363; 18.5.2012, p. 319; 21.2.2014, p. 347; 14.12.2012, p. 347; 19.12.2014, p. 370.
35. R. 29(4).
36. LoB for 24.2.1994, 25.8.1995, 7.5.1993 (3 Resolutions) and 8.5.1992 (4 Resolutions).

- 
37. R. 27, *Proviso*.
  38. R. 163(3).
  39. R. 24.
  40. BAC mts., 24.2.1982, 8.3.1982, 9.7.1982, 7.10.1982, 23.2.1983, 23.7.1985 and 21.2.1986.
  41. R.S. Deb., 21.3.1969, c. 5345-49.
  42. R. 161.
  43. Bn. (II), 2.5.1997.
  44. R. 159(1).
  45. R. 159(2).
  46. R. 159(3). For instances, see C.S. Deb., 11.9.1953, c. 1956; R.S. Deb., 4.3.1955, c. 1214; 4.5.1956, c. 1259; 14.2.1958, c. 495; 19.2.1965, c. 312; and 16.2.1968, c. 777.
  47. C.S. Deb., 26.2.1954, c. 1139 and 1247.
  48. R. 160(1).
  49. R. 160(2).
  50. R. 160(3).
  51. C.S. Deb., 26.2.1953, c. 1299-1302.
  52. R.S. Deb., 24.3.1995, c. 539.
  53. R. 162.
  54. R.S. Deb., 3.12.1965, c. 3652.
  55. *Ibid.*, 26.5.1972, c. 98.
  56. F. No. RS 06/01/2006-L.
  57. F. No. RS 06/03/2009-L.
  58. R. 164.
  59. R.S. Deb., 23.8.1954, c. 36-37.
  60. *Ibid.*, 27.8.1954, c. 668.
  61. R. 166.
  62. R. 163(1).
  63. Bn. (I), 14.8.1969.
  64. R. 163(2).
  65. R. 229(2).
  66. R.S. Deb., 22.11.1963, c. 885.
  67. F. No. RS 06/02/2012-L.
  68. LoB, 7.4.1972; Revised LoB 7.4.1972.
  69. F. No. RS 6(1)/2002-L.
  70. Bn. (I), 10.12.1954.
  71. *Ibid.*, 4.3.1955.
  72. *Ibid.*, 16.9.1955.
  73. *Ibid.*, 4.5.1956.
  74. *Ibid.*, 7.12.1956.
  75. *Ibid.*, 24.5.1957.
  76. *Ibid.*, 7.5.1965.
  77. *Ibid.*, 19.12.1969.
  78. *Ibid.*, 13.3.1970.
  79. *Ibid.*, 11.12.1981.
  80. *Ibid.*, 24.8.1990.
  81. *Ibid.*, 24.3.1995.
  82. R.S. Deb., 24.3.1995, c. 525-27.
  83. R. 33(1)(a).
  84. Bn. (I), 19.12.1967.
  85. *Ibid.*, 18.3.1987; 29.3.1989.
  86. R.S. Deb., 26.4.1989, c. 199-200.
  87. Union List (List I) of Seventh Schedule, entries 13 and 14.

88. Art. 253.
89. *Jagan Nath Sathu v. Union of India*, AIR 1960 SC 625.
90. *Nirmal v. Union of India*, AIR 1959 Cal. 506; *Maganbhai v. Union of India*, AIR 1969 SC 783.
91. D.D. Basu, *Shorter Constitution of India*, 2006, 13<sup>th</sup> Edn., pp. 1174-75.
92. *Re. Berubari Union*, AIR 1960 SC 845.
93. Bn. (I), 7.8.1952.
94. *Ibid.*, 6.9.1957.
95. *Ibid.*, 13.9.1957.
96. *Ibid.*, 22.2.1966.
97. *Ibid.*, 14.8.1971.
98. *Ibid.*, 18.12.1952, 7.9.1956.
99. *Ibid.*, 22.12.1967.
100. *Ibid.*, 4.8.1983.
101. *Ibid.*, 13.5.1986 and 22.8.1986.
102. *Ibid.*, 9.8.1994.
103. *Ibid.*, 3.8.1995.
104. *Ibid.*, 1.4.1976; 13.5.1988.
105. *Ibid.*, 13.11.1962.
106. *Ibid.*, 20.8.1985.
107. *Ibid.*, 2.3.2001.
108. *Ibid.*, 18.3.2001.
109. *Ibid.*, 15.3.2013.
110. Customs Tariff Act, 1975, s. 7(3).
111. Official Languages Act, 1963, s. 4(1).
112. Bn. (I), 24.7.1975.
113. R.S. Deb., 10.12.1974, c. 248.
114. Art. 61.
115. Art. 67.
116. Art. 90.
117. Art. 123.
118. Art. 249.
119. Art. 312.
120. Art. 352.
121. Art. 356.
122. Art. 360.
123. Bn. (I), 23.6.1971 and 24.6.1971. For procedural discussion, see R.S. Deb., 23.6.1971, c. 45-97.
124. *Ibid.*, 5.8.1991.
125. *Ibid.*, 8.12.1977.
126. *Ibid.*, 21.3.2002.
127. Art. 249(1).
128. Art. 249(2).
129. Art. 249(3).
130. C.S. Deb., 18.7.1952, c. 1481-92; and 22.7.1952, c. 1628-86.
131. Prov. Parliament, Bn. (I), 5.6.1951.
132. Bn. (I), 13.8.1986.
133. Report of Sarkaria Commission on Centre-State Relations, para. 2.25.09-10.
134. Art. 312.
135. R.S. Deb., 6.12.1961, c. 1301-05.
136. Bn. (I), 30.3.1965.
137. Bn. (II), 8.9.1961 and 30.10.1961.
138. Art. 352(1).
139. Art. 352(4).

140. Art. 352(4), *Proviso*.
141. Art. 352(5).
142. *Ibid.*, 1<sup>st</sup> *Proviso*.
143. *Ibid.*, 2<sup>nd</sup> *Proviso*.
144. Art. 352(6).
145. Art. 356(1).
146. Art. 356(2).
147. Art. 356(3).
148. R.S. Deb., 23.3.1971, c. 20-27.
149. *Ibid.*, 10.8.1959, c. 83-97.
150. *Ibid.*, 12.11.1973, c. 127-30.
151. *Ibid.*, 9.11.1987, c. 223-28.
152. *Ibid.*, 18.8.1959, c. 972; 24.3.1965, c. 4429; and 20.3.1967, c. 126.
153. Art. 356(3).
154. *Ibid.*, *Proviso*.
155. 99<sup>th</sup> Session (28.2.1977 and 1.3.1977); and 158th Session (3.6.1991 and 4.6.1991).
156. In the early years the resolution used to be worded rather elaborately: see C.S. Deb., 25.3.1953, c. 2156; and R.S. Deb., 29.11.1954, c. 193.
157. For early form of resolution, see C.S. Deb., 15.9.1953, c. 2437; and R.S. Deb., 7.9.1956, c. 3697.
158. R.S. Deb., 12.3.1968, c. 4306-07.
159. C.S. Deb., 25.3.1953, c. 2156.
160. R.S. Deb., 29.11.1954, c. 201.
161. *Ibid.*, 12.10.1989, c. 102.
162. *Ibid.*, 5.10.1990, c. 88.
163. *Ibid.*, 23.8.1990, c. 315.
164. *Ibid.*, c. 314.
165. *Ibid.*, 26.8.1991, c. 180.
166. *Ibid.*, 25.2.1992, c. 264.
167. *Ibid.*, 13.3.1980, c. 124-29.
168. *Ibid.*, 4.11.1986, c. 213-15.
169. For instances, see Bn. (II), 1.3.1968, 4.5.1968, 22.7.1969, 5.3.1973 and 6.3.1980.
170. Bn. (II), 12.7.1971.
171. *Ibid.*, 22.7.1969.
172. LoB, 21.8.1969.
173. R.S. Deb., 3.4.1967, c. 1937-2020; and 4.4.1967, c. 2107-20.
174. Bn. (I), 21.7.1971.
175. *Ibid.*, 25.4.1989 and 26.4.1989.
176. LoB, 26.2.1991.
177. Bn. (I), 27.3.1980.
178. R.S. Deb., 21.12.1992, c. 438.
179. Bn. (I), 22.11.1967 and 27.11.1967.
180. R.S. Deb., 30.11.1954, c. 348-52.
181. *Ibid.*, 15.12.1981, c. 229-35.
182. Art. 356(4).
183. *Ibid.*, *Proviso*.
184. Art. 356(5).
185. Bn. (II), 28.11.1970.
186. L.S. Deb., 12.4.1966, c. 10626-655; R.S. Deb., 12.5.1966, c. 1261-73.
187. R.S. Deb., 27.3.1961, c. 9.
188. Art. 360(1).
189. Art. 360(2).
190. *Ibid.*, *Proviso*.
191. Customs Tariff Act, 1975, ss. 7 and 8.

192. Bn. (I), 28.11.1978.
193. Salaries and Allowances of Ministers Act, 1952, s. 11(2).
194. Bn. (I), 7.5.1986, 20.3.1987, 6.9.1990 and 17.8.1995.
195. *Ibid.*, 3.9.1990.
196. *Ibid.*, 11.3.1991 and 26.8.1993.
197. Electricity (Supply) Act, 1948, s. 65(3).
198. G.F.M. Campion, *op. cit.* p. 109.
199. Ivor Jennings, *Parliament*, 2<sup>nd</sup> Edn. 1957, pp. 363-64.

## CHAPTER–23

### Motions and Short Duration Discussions

#### **Motions**

##### *Definition and classification*

A motion is a proposal made by a member to the House that the House do something or order something to be done or express an opinion with regard to some matter. A motion must be phrased in such a way that, if assented to, it will purport to express the judgement or will of the House.<sup>1</sup> A matter requiring the decision of the House is decided by means of a question put by the Chairman on a motion made by a member and resolved in the affirmative or negative, as the case may be.<sup>2</sup> The proceedings between the rising of a member to move the motion and the ascertainment of the decision of the House by the Chair, constitute a debate. Thus, the essential stages in obtaining a decision of the House are: the moving of the motion, proposing of a question by the Chair, putting of the question and collection of voices by the Chair.<sup>3</sup> These stages are connected together and as such the motion must be so framed as to be capable of expressing a decision of the House.

Motions may conveniently be classified as substantive or subsidiary. A substantive motion is a self-contained proposal made in reference to a subject which the mover wishes to bring forward. A subsidiary motion relates to a substantive motion and is made use of to enable the House to dispose it of in the most appropriate manner.<sup>4</sup> Motions for the election of the Deputy Chairman, Motion of Thanks on the President's Address and Motion to declare the seat of a member vacant where leave of absence has not been granted<sup>5</sup> are examples of substantive motions moved in the Rajya Sabha.

The conduct of persons in high authority can only be discussed on a substantive motion drawn in proper terms.<sup>6</sup> The Constitution lays down specific procedure for the impeachment of the President and for the presentation of an address to the President by each House of Parliament for the removal of a Judge of the Supreme Court or of a High Court, the Comptroller and Auditor-General of India, or the Chief Election Commissioner.<sup>7</sup> Similarly, provision has been made in the Constitution for the removal of the Vice-President and the Deputy Chairman of the

Rajya Sabha by means of resolutions.<sup>8</sup> Except for the motion for election of the Deputy Chairman and the Motion of Thanks on the President's Address, no substantive motion requires to be seconded.<sup>9</sup>

Motions such as, "that the policy or situation or statement or any other matter be taken into consideration" are not, strictly speaking, substantive motions and are not generally put to the vote of the House since such motions are considered only a device to discuss a subject without asking the House to record its decision or opinion. However, amendments which seek to add words at the end of the original motion are permitted.

Besides the above classification, motions may also be of private members or of the Government subject to whether the mover is a private member or a Minister. Again, a motion may be statutory or general (*i.e.*, non-statutory) depending on whether it is moved in pursuance of a statutory provision or moved merely on a matter of general public interest.

#### *General rules relating to motions*

The general rule is that no discussion on a matter of general public interest can take place except on a motion made with the consent of the Chair.<sup>10</sup> Notice of a motion is required to be given in writing addressed to the Secretary-General of the House.<sup>11</sup> In order that a motion may be admissible, it should raise substantially one definite issue; should not contain arguments, inferences, ironical expressions, imputations, or defamatory statements; should not refer to the conduct or character of persons except in their public capacity; should be restricted to a matter of recent occurrence; should not raise a question of privilege; should not revive discussion of a matter which has been discussed in the same session; should not anticipate discussion of a matter which is likely to be discussed in the same session; should not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India; should not seek discussion on a paper or document laid on the Table by a private member; should not ordinarily relate to matters which are under consideration of a Parliamentary Committee; should not ask for expression of opinion or the solution of an abstract legal question or of a hypothetical proposition; should not relate to a matter which is not primarily the concern of the Government of India; should not raise matter under the control of bodies or persons not primarily responsible to the Government of India; should not relate to a matter with which a Minister is not officially concerned; should not refer courteously to a friendly foreign country; should not relate to or seek disclosure of information about matters which are in their nature secret such as Cabinet discussions or advice given to the President in relation to any matter in respect of which there is

constitutional, statutory or conventional obligation not to disclose information; and should not relate to a trivial matter.<sup>12</sup>

The Chairman decides on the admissibility of a motion and may disallow a motion or a part thereof when, in his opinion, it does not comply with the rules.<sup>13</sup>

The rules do not prescribe any particular form of a motion to raise a discussion on a matter of general public interest. The general form used, however, is: "This House do consider the situation, etc." or "the situation or a report be taken into consideration, etc."

#### *No-day-yet-named motions*

If the Chairman admits notice of a motion and no date is fixed for its discussion, it is notified in the Bulletin with the heading "No-Day-Yet-Named Motion."<sup>14</sup> If a private member's motion is admitted and thereafter notice of a Government motion on the same subject is received, the Government motion is also admitted. If it is decided to have a discussion on that subject by way of a motion, the Government motion gets precedence over private member's motion, as 'no-day-yet-named motions' are discussed in Government time.

A private member's motion regarding the second report of the University Grants Commission was admitted and notified as a no-day-yet-named motion.<sup>15</sup> Subsequently, a Government motion on the same subject was also admitted. However, the discussion took place on the Government motion as in the programme of business announced by the Minister of Parliamentary Affairs, mention was made of discussion on the Government motion only.<sup>16</sup>

A private member's motion on railway accidents was admitted as a no-day-yet-named motion.<sup>17</sup> Subsequently, a Government motion on the subject was also admitted and notified.<sup>18</sup> A point of order was raised when only the Government motion was included in the list of business. The Vice-Chairman ruled that where there were two motions from a member as well as from the Government on a Government business day, the Government motion would have precedence.<sup>19</sup>

However, sometimes both the motions, *i.e.*, one given notice of by a private member and another by a Minister, on the same subject, may be listed and discussed together.

A member gave notice of the following motion:

"That this House recommends to the President that the Governor of West Bengal be dismissed forthwith."

Subsequently, the Home Minister also gave notice of the following motion:

“That this House approves the statement made in the Rajya Sabha on November 30, 1967, on behalf of Government regarding the situation in West Bengal.”

Both the motions were admitted and discussed together. The private member's motion was negated and the Government motion was adopted.<sup>20</sup>

Every session a number of motions are admitted and published in the Bulletin Part II under the heading ‘No-Day-Yet-Named Motion’ which reflect diverse views and focus attention on various issues of public importance in the country. On an occasion, a motion (regarding the BHEL-SIEMENS Agreement) was admitted in the names of as many as ninety-nine members.<sup>21</sup>

As per rules, the Chairman may, after considering the state of business in the House and in consultation with the Leader of the House allot a day or days or part of a day for the discussion of any such motion. An item in the list of business about the admitted motion is shown in the names of all members from whom notices are received.

#### *Discussion on a motion*

On being called by the Chair, the member in whose name the motion stands in the list of business formally moves the motion and makes his speech, unless he declares that he does not want to move the motion.

There is no provision in the rules for authorising another member to move a motion on behalf of the member in whose name the motion stands in the list of business, unlike in the case of resolutions. If the member is absent to move the motion, the second or the third member and so on, if any, in whose name the motion stands in the list of business is called to move the motion.

Where the content of two motions is cognate, both of them may be discussed together.

Two motions—one regarding activities of CIA in the country and another regarding internal security of the country in the context of increased espionage activities—were moved separately by two members but were discussed together.<sup>22</sup>

Two motions—one disapproving the Award of Indo-Pakistan Western Boundary Tribunal on the Rann of Kutch and another taking the Award into consideration—standing in the names of two members were moved separately but discussed together.<sup>23</sup>

A combined discussion was held on two motions moved together by the same member regarding Annual Reports of the Air India and the Indian Airlines Corporations, at the same sitting.<sup>24</sup>

Normally, one member moves only one motion but there have been some rare occasions in early years when the same member moved two motions, at the same sitting.

On 21 December 1956, a member moved a motion regarding Indian Foreign Service Branch ‘B’ Rules. After the discussion was over, he moved another motion regarding the 8th report of the Industrial Finance Corporation, at the same sitting.<sup>25</sup>

On 30 August 1957, a member moved a motion on the report of the Hindustan Housing Factory Pvt. Ltd.; thereafter, he also moved at the same sitting another motion on the report of the Ashoka Hotels Ltd.<sup>26</sup>

After the member has moved the motion, the Chairman places the motion before the House. Amendments, if any, are then moved by members and discussion follows. After the members and the Minister concerned have participated in the debate, the mover of the motion may speak again by way of reply. Amendments, if any, are put to the vote of the House and disposed of after which the main motion may be put to the vote. Generally, as stated above, a motion to take a report or a matter into consideration is not put to the vote of the House.

The motion may be adopted in terms moved by the member or adopted with amendment, or negated. It may also be withdrawn by leave of the House or it may also be talked out, i.e., concluded with discussion without recording any decision of the House.

Two notices of motion regarding need to modify the Action Taken Report on the Justice Nanavati Commission of Inquiry were admitted and notified in Parliamentary Bulletin Part II, dated 11 August 2005. The motion was discussed on 11 August 2005 and negated by voice-vote.<sup>27</sup>

A motion regarding Volker Commission Report was admitted and notified in Parliamentary Bulletin Part II, dated 25 November 2005. The terms of the motion were subsequently revised and included in the list of business of 29 November 2005. The motion was moved and was negated by voice-vote on 29 November 2005.<sup>28</sup>

During 220<sup>th</sup> Session, a notice of motion regarding inflationary pressure on the country was given by the Leader of Opposition and others. Subsequently, the terms of the motion were revised and was admitted and included in the list of business of 4 August 2010 in the revised form. After the discussion on 5 August 2010 no decision of the House was obtained on the motion. However, after the discussion on the motion, a resolution in pursuance of the terms of the motion was moved by the Deputy Chairman, Rajya Sabha and was adopted.<sup>29</sup>

The Chairman, Rajya Sabha admitted the notices of motion regarding decision of the Government to allow FDI in multi-brand retail sector in the leaders meeting held on 29 November 2012. The same was announced in the House on 30 November 2012. The discussion on the motion took place on 6 and 7 December 2012. It was put to vote of the House on 7 December 2012 and negatived.<sup>30</sup>

The discussion on a Motion may remain inconclusive. In this eventuality, the motion lapses unless the House agrees formally or by consensus to carry forward the debate on that motion to the next session.

The seventeenth and eighteenth reports of the Commissioner for the Scheduled Castes and Scheduled Tribes were discussed on 5 and 7 September 1970 (73<sup>rd</sup> Session); the House agreed to carry the discussion to the next session and the Deputy Chairman announced to that effect on 7 September 1970. The reports were further discussed on 9 and 12 November 1970 (74<sup>th</sup> Session).

Discussion on a motion regarding disapproval of the conduct of certain members on the occasion of the President's Address was postponed to the next session by a motion adopted to that effect.<sup>31</sup>

### **Repetition and withdrawal of a motion**

The general rule regarding motions is that a motion must not raise a question substantially identical with the one on which the House has already given a decision in the same session.<sup>32</sup> If, however, the House desires to raise an identical question discussed earlier in the same session, the rule has to be suspended.

The Rajya Sabha passed the Constitution (Sixty-fourth Amendment) Bill, 1990, on 28 March 1990. The Bill could not be passed in the Lok Sabha. Another Bill, the Constitution (Sixty-fifth Amendment) Bill, 1990, on the same subject (extending the President's Rule in Punjab) was introduced in and passed by the Lok Sabha. Before the Bill was taken up for consideration in the Rajya Sabha, the Minister concerned moved a motion to suspend rule 228 for the purpose.<sup>33</sup> The motion was adopted.

A member who has made a motion can withdraw it only by leave of the House.<sup>34</sup> The leave is signified not upon question but by the Chairman taking the pleasure of the House. If any dissentient voice is heard or a member rises to continue the debate, the Chairman forthwith puts the original motion. If an amendment has been proposed to the motion, the original motion cannot be withdrawn until the amendment has been disposed of<sup>35</sup> or is withdrawn by leave of the House.

When a member wanted to withdraw an amendment to a motion, the Chair asked whether the member had the leave of the House to withdraw. Some members answered in the negative. Thereafter, the amendment was put to vote and negatived.<sup>36</sup>

### **Dilatory motion**

At any time after a motion has been made, a member may move that the debate on the motion be adjourned. If the Chairman is of the opinion that a motion for the adjournment of a debate is an abuse of the rules of the House, he may either forthwith put the question thereon from the Chair or decline to propose the question.<sup>37</sup>

Dilatory motion is a generic name for motions the object of which is to put off further consideration of the business in hand for the time being. If the Chairman thinks that a dilatory motion is an abuse of the rules of the House, he may either refuse to accept the motion, or accept it and put the question on it forthwith, *i.e.*, without allowing it to be debated.<sup>38</sup>

A dilatory motion is intended to have a postponing or indefinitely delaying effect on a debate. If it is moved and carried, the subject under discussion is either shelved or the debate is postponed. A dilatory motion is a superseding motion because if it is accepted by the Chair he proposes the motion as a new question, which supersedes the original question and must be disposed of before the debate on the original question can be resumed.<sup>39</sup>

As regards the term ‘abuse of the rules of the House’, used in the above rule and which also occurs in some other rules, the term may be defined as the use by a member for an improper purpose (*e.g.*, to impede the transaction of business or to prevent the minority from giving utterance to sentiments unpalatable to the majority or which they do not wish to be voiced) of his right to move motions. For a member who has been speaking on a question to conclude his speech by moving the closure would probably be considered to be an abuse of the rules of the House.<sup>40</sup>

### **Amendments**

An amendment is a subsidiary motion moved in the course of debate upon another motion, which interposes a new cycle of debate and decision between the proposal and decision of the main motion and question. The object of an amendment is either to modify a question in such a way as to increase its acceptability or to present to the House a different proposition as an alternative to the original question.<sup>41</sup>

An amendment must be relevant to, and within the scope of the motion to which it is proposed.<sup>42</sup> An amendment which has merely the effect of a negative vote is not admissible.<sup>43</sup> An amendment on a question should not be inconsistent with a previous decision on the same question.<sup>44</sup>

An amendment is generally moved in the form of a proposal either to insert certain words in the motion, or to omit certain words or substitute certain words for the words in the original motion.

Notice of an amendment to a motion is to be given at least one day before the day on which the motion is to be considered, unless the Chairman allows the amendment to be moved without such notice.<sup>45</sup>

The Chairman may refuse to put an amendment which in his opinion contravenes rules.<sup>46</sup> The Chairman has also power to select the amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgement upon it.<sup>47</sup>

### **Subject-matter of a motion**

Any matter of public importance can be the subject-matter of a motion. The following are some typical motions moved in the Rajya Sabha by private members.

Government resolution on the findings of Committee on LIC;<sup>48</sup> allegations against certain Chief Ministers and other Ministers of State Governments;<sup>49</sup> recommending dismissal of illegal Ghosh Ministry in West Bengal (motion negatived);<sup>50</sup> use of force by police against two Ministers of U.P. in Delhi (motion adopted in an amended form);<sup>51</sup> Seventh Conference of Heads of State or Government of non-aligned countries held in Delhi (motion adopted);<sup>52</sup> propriety of the Deputy Prime Minister and Minister of Finance employing his son to assist in his work (motion was not put to House);<sup>53</sup> condemning unconstitutional action of the Governor of West Bengal in dismissing the UF Government in that State (motion negatived);<sup>54</sup> constitution of a Parliamentary Committee to investigate all matters arising out of SQ no. 730 in the Rajya Sabha on 27 August 1974, and supplementaries thereto as well as the statement of the Minister of Commerce in connection therewith in the Rajya Sabha on the same day (Pondicherry licence case) (motion negatived);<sup>55</sup> situation arising out of the continued suspension of the right to move any court for the enforcement of the rights conferred by article 21 and article 22 of the Constitution under the order made by the President under clause (1) of article 359 of the Constitution on 3 November 1962;<sup>56</sup> continued detention of persons under Defence of India Act, 1962, in the context of the Supreme Court Judgement in the case of *Makhan Singh Tarsikka v. State of Punjab*;<sup>57</sup> expressing concern of the House over the loss of life and property due to earthquake in Gujarat on 23 March 1970, and its sympathy with the grief stricken and affected people of the area (motion adopted, all members standing);<sup>58</sup> motion regarding appointment of two separate Commissions of Inquiry to inquire into allegations of corruption against members of families of the Prime Minister and the former Home Minister (motion adopted);<sup>59</sup> motion regarding disagreement with the reported statement of the Prime Minister giving a clean chit to three Ministers of the Union Cabinet namely, Shri Lal K. Advani, Dr. Murli Manohar Joshi and Sushree Uma Bharati, against whom the CBI had

completed investigations and filed chargesheets (motion adopted),<sup>60</sup> motion regarding Volcker Commission Report;<sup>61</sup> motion regarding persistent violence in Gujarat (motion adopted);<sup>62</sup> motion regarding inflationary pressure on the economy and its adverse impact on the common man;<sup>63</sup> motion regarding disapproval of the decision of the Government to allow FDI in multi-brand retail sector.<sup>64</sup>

### **Progress of motion adopted on 10 August 1978**

The motion regarding appointment of two separate Commissions of Inquiry, referred to in the list above had evoked a lot of interest and generated controversy which needs to be mentioned in more details. The notice for motion given by a member demanded appointment of two separate Commissions of Inquiry under the Commissions of Inquiry Act, 1952—one to inquire into allegations of corruption made against the members of the family of the Prime Minister, Shri Morarji Desai, and the other to inquire into the allegations of corruption against the members of the family of the former Home Minister, Chaudhary Charan Singh. The motion was admitted and notified in the Bulletin under the heading “No-Day-Yet-Named Motion”.<sup>65</sup>

The Business Advisory Committee allotted one day and fixed 10 August 1978, for its discussion.<sup>66</sup> The motion was accordingly taken up on that day. Before the discussion on the motion commenced points of order were raised about its admissibility on the grounds that it violated rules 169(i), (iii), (iv) and (vi), and also section 3 of the Commissions of Inquiry Act, 1952, since under that Act, the Rajya Sabha had no jurisdiction to make a recommendation to the Government for the appointment of a Commission and the motion would be an exercise in futility.<sup>67</sup>

The points of order were ruled out by the Deputy Chairman holding that (i) the motion did raise substantially one definite issue in its operative part; (ii) the provision of rule 169 had been substantially complied with in framing the motion; and (iii) whether the motion was violative of the Commissions of Inquiry Act or not, was not the consideration before the Chairman when the motion was admitted and in any case the argument was not very relevant so far as the discussion of the motion was concerned. As regards the argument about the motion being an exercise in futility, the Deputy Chairman observed, “...the limited point... is whether it should be taken up for discussion and whether it has been properly admitted. What effects it will have, whether it will be futile or not is again something with which we are not concerned at this stage... Therefore, looking to the provisions of our rules and the arguments that I have heard and above all, looking to the precedents which indicate that similar motions have been

accepted in this House for discussion, I hold that it has been properly accepted.”<sup>68</sup>

On 3 August 1978, the Chairman while disposing points made by members regarding the admissibility of the above motion had cited two precedents, reference to which was made above. On 27 April 1963, a private members’ resolution regarding the appointment of a Commission to enquire into the administration of companies, under the Commissions of Inquiry Act was discussed and negatived. On an earlier occasion in 1961, a resolution given notice of by a private member regarding the appointment of a Commission under the Commissions of Inquiry Act, 1952, to enquire into the concentration of ownership in the newspaper industry was admitted and had secured a place in the ballot on two occasions.

Amendments were moved by five members to the motion. The one moved by Shri Bhupesh Gupta was put to the House and adopted by a division. The motion, as amended, was thereafter adopted in the following amended form at about 10.00 p.m. on 10 August 1978:

That having noted with regret and disappointment the refusal of the Prime Minister to place before the House all the correspondence including the correspondence between him and the former Home Minister, Chaudhary Charan Singh, and other documents in his possession relating to the allegations of corruption made by the former Home Minister, Chaudhary Charan Singh, against the family members of the Prime Minister and the counter-allegations of corruption made by the Prime Minister against the family members of the former Home Minister which have caused great disconcert in the country, this House is of the opinion that if the situation is not dealt with appropriately and with urgency it demands, it is likely to bring not only the persons of high public standing to avoidable disrepute but also cause irreparable damage to the very credibility of public life in the country and therefore, calls upon Government to seek forthwith the guidance and advice from a Committee comprising fifteen members of this House to be appointed by the Chairman, Rajya Sabha, for appropriate and necessary actions to be taken on the allegations or alternatively to straightaway appoint without delay, two separate Commissions of Inquiry under the Commissions of Inquiry Act, 1952, one to inquire into the allegations of corruption made against the members of the family of the Prime Minister, Shri Morarji Desai and the other to inquire into the allegations of corruption against the members of the family of the former Home Minister, Chaudhary Charan Singh, enjoining the Commissions to undertake comprehensive inquiries and to report thereon expeditiously.<sup>69</sup>

The next day, the matter arising out of the adoption of the motion was raised in the context of some observations made in the Press by the

Leader of the House (Shri Lal K. Advani) about the nature of the resolution adopted on the previous day.<sup>70</sup> On 17 August 1978, the Chairman made the following announcement in the House:

The House at its sitting held on the 10 August 1978, adopted a motion in regard to the appointment of a Committee of this House or two separate Commissions of Inquiry under the Commissions of Inquiry Act, 1952, to enquire into certain allegations of corruption against members of families of the Prime Minister and the former Home Minister, Chaudhary Charan Singh. The said motion recommends to the Government to-

- (i) seek forthwith the guidance and advice from a Committee of fifteen members of the Rajya Sabha to be appointed by the Chairman, Rajya Sabha, for appropriate and necessary actions to be taken on the allegations; or
- (ii) straightaway appoint two separate Commissions under the Commissions of Inquiry Act, 1952, in the matter.

Two courses, therefore, seem to be open to Government namely, either they should seek the guidance and advice from a Committee of the members of Rajya Sabha or forthwith appoint two separate Commissions of Inquiry.

This matter was also raised in the House yesterday. I am of the opinion that in terms of the motion the question of appointment of a Committee by me would depend on the indication from the Government as to which one of the two alternatives mentioned in the motion is acceptable to them. The appointment of a Committee at this stage without knowing the mind of the Government would be infructuous. I would, therefore, request the Leader of the House to let me know what course the Government propose to adopt in the matter.<sup>71</sup>

On 21 August 1978, the matter was again raised about various implications of the motion adopted by the House. The Deputy Chairman requested the House to wait till the Government announce its reaction in this respect.<sup>72</sup> On 24 August 1978, the Prime Minister made the following statement in the House in respect of the motion:

Government has given careful and anxious consideration to the resolution adopted by this House on the 10 August 1978. The resolution related to certain charges of corruption alleged to have been made and called upon the Government either to seek forthwith the guidance and advice from a Committee of fifteen members of the Rajya Sabha to be appointed by the Chairman for appropriate and necessary action to be taken on the allegations or straightaway appoint two separate Commissions, under the Commissions of Inquiry Act, 1952.

Any resolution of the House is entitled to the greatest respect from the Government, but a resolution is essentially recommendatory in nature. Having regard to the fact that no specific instances of corruption have been referred to in the resolution, Government do not consider that it would be justified in appointing Commissions of Inquiry which can only be set up for making an enquiry into any definite matter of public importance.

For the same reason Government do not consider it appropriate to adopt the alternative course of action suggested in the resolution, namely, to seek the guidance and advice of a Committee to be appointed by the Chairman.

Let me however, make it clear that my Government yields to none in its desire to maintain the highest standards of purity in the administration and would not allow any allegation of corruption to survive which may sully its image. So, even while regretting its inability to accept either of the two recommendations contained in the resolution, in the event of any specific charges of corruption in the context of the resolution being made to it in writing by any hon'ble member since my Government took office, Government proposes to refer the same to the Chief Justice of India for being examined by him.<sup>73</sup>

Members expressed their views on the above statement. Thereafter, the Chairman promised to give his considered opinion in the matter. On 29 August 1978, the Chairman made the following announcement:

I had stated that the motion adopted by the House on the 10 August 1978, was a recommendation addressed to the Government to, *inter alia*, seek the guidance and advice from a Committee to be appointed by the Chairman. I had also stated that the question of appointment of a Committee by me would depend on the indication as to which one of the two alternatives mentioned in the motion was acceptable to the Government. The Prime Minister had accordingly, made a statement in the House on the 24 August 1978.

I have carefully gone through the statement made by the Prime Minister as well as the various views expressed by members in the House in the matter. It is evident from the Prime Minister's statement that neither of the two alternatives mentioned in the motion has been accepted by the Government. According to my reading of the 10th August motion, constitution of the Committee by me is dependent upon the Government showing willingness to seek advice and guidance from it, which the Government have declined. The motion also does not stipulate that the Committee should be appointed by me even if the Government decline to accept any of the two alternatives mentioned therein. I am therefore, of the opinion that in the circumstances I am not called upon to appoint such a Committee in terms of the said motion.<sup>74</sup>

On the announcement, members expressed their views. A member also read out a motion given notice of by him resolving that the Government refer forthwith all the allegations of corruption, etc. to the Chief Justice of the Supreme Court for scrutiny and examination and directing the Government to report the findings to the House. Subsequently, a number of no-day-yet-named motions were received for (i) appointment of a parliamentary committee in the matter; and (ii) reference of the charges to the Chief Justice of India from members,<sup>75</sup> including the member who had read out his motion in the House on 29 August 1978.<sup>76</sup> A private member's resolution from a member who had secured the second place in the ballot was also admitted and notified for discussion on 23 February 1979.<sup>77</sup> On 23 February 1979, the Minister of Home Affairs (Shri H.M. Patel) made a statement in the House regarding decision of the Government to refer to the Chief Justice of India the debate on the motion adopted by the House on 10 August 1978, to enquire whether any *prima facie* case in respect of any charges of corruption against the family members of the Prime Minister and the former Home Minister, referred to in the debate and pertaining to the period after March 1977, was established so as to justify a formal enquiry under the Commissions of Inquiry Act, 1952.<sup>78</sup> On 26 and 27 February 1979, members expressed their views on the decision of the Government.<sup>79</sup>

On 4 February 1980, some members were permitted to make special mention about a news report that Justice Vaidialingam (to whom the matter had been referred) had submitted his report indicting family members of the former Prime Minister and the former Home Minister. There was a demand made by some members that the report should be tabled in the House.<sup>80</sup>

On 5 February 1980, the Minister of Parliamentary Affairs and Communications (Shri Bhishma Narain Singh) laid on the Table a copy of the summary of conclusions and recommendations contained in the report (25 January 1980) of Justice C.A. Vaidialingam, Special Judge<sup>81</sup> and the matter rested there.

#### **Motion regarding persistence of violence in Gujarat**

On 24 April 2002, the Chairman made the following announcement in the House:

Hon'ble members, based on the notice given by Dr. Manmohan Singh and others I have admitted the following motion under rule 170 of the Rules of Procedure and Conduct of Business in the Rajya Sabha:

That this House expresses its deep sense of anguish at the persistence of violence in Gujarat for over six weeks, leading to loss of lives of a large number of persons, destruction of property

worth crores of rupees and urges the Central Government to intervene effectively under article 355 of the Constitution to protect the lives and properties of the citizens and to provide effective relief and rehabilitation to the victims of violence.<sup>82</sup>

The discussion will take place on Thursday, 2 May 2002.

On 2 May 2002, Shri Arjun Singh moved the motion on which the discussion continued on 3 May 2002, and 6 May 2002. The motion was unanimously adopted on 6 May 2002. Thereafter, the Chairman made the following observation in the House:

I congratulate the hon'ble members of the Rajya Sabha for adopting the motion on Gujarat with one voice. This motion agreed to by the Opposition and the Government is a testimony to the spirit of accommodation, adjustment and the resilience of our democracy.

I have every hope that this common voice will help strengthen the confidence of the people in our democratic institutions.

This one voice rising from the Chamber of the Rajya Sabha will reverberate throughout the country and blow away the dark and ominous clouds hovering over the State. Hopefully this will help usher in an era of lasting peace for the people of Gujarat.

On 23 July 2002, Shri Pranab Mukherjee raised a short duration discussion on the steps taken by the Government in pursuance of the motion adopted under rule 170 by the Rajya Sabha on 6 May 2002, to intervene in the State of Gujarat under article 355 of the Constitution of India. The discussion was concluded on 24 July 2002.

### **Government motions**

Like private members, Ministers also move motions on matters of general public interest. Generally, these are either for the purpose of considering important reports, such as reports of the UPSC, Commission for SC/ST, UGC or any other Commission or for the purpose of discussing such matters as price situation, etc. or any other matter or paper. Apart from these, there have been some important Government motions which had been discussed in the Rajya Sabha. For instance:

Report of the States Reorganisation Commission;<sup>83</sup> Joint Communique issued on the conclusion of talks between the Prime Ministers of India and China;<sup>84</sup> Colombo proposals on India-China relations;<sup>85</sup> Indo-Pak Agreement relating to Gujarat-West Pakistan border;<sup>86</sup> report of the Committee on Defections;<sup>87</sup> White Paper on Punjab;<sup>88</sup> report of the Eighth Finance Commission;<sup>89</sup> situation in South Africa;<sup>90</sup> Sarkaria Commission Report on Centre-State Relations;<sup>91</sup> Treaty of Peace, Friendship and Cooperation between India and USSR;<sup>92</sup> IMF Loan;<sup>93</sup> Draft Five Year Plan (1978–83);<sup>94</sup> Sixth Five Year Plan; Approach to Seventh Five Year Plan;<sup>95</sup> economic situation;<sup>96</sup> Thakkar Commission Report;<sup>97</sup> and National Policy for Children;<sup>98</sup> etc.

Amendments to a motion may also be moved and the Government motion may be adopted in an amended form. However, amendments should normally be moved immediately after a motion is made and not after the debate has commenced.

After the motion for consideration of the twenty-second Annual Report of the UPSC was moved, the Chair announced that there were thirty amendments given notice of by a member but as the member was not present, the said amendments could not be moved. After the lunch recess, the member came to the House and requested the Chair to permit him to move the amendments, although the stage was over, as an exception taking into consideration the special circumstances under which he could not be present to move his amendments at the appropriate time. The Deputy Chairman after ascertaining that the House had no objection, permitted the member to move his amendments, making it clear that it was not going to be a precedent.<sup>99</sup>

In the case of a Government motion to consider the report of the States Reorganisation Commission, a notice for moving amendments to the motion was given. The Chairman ruled “There is not any need here at this stage to reach decision. It is only discussion. Therefore, all amendments are out of place.”<sup>100</sup>

On a number of occasions, certain important subjects/papers have been discussed on the basis of Government motions and at the end, Government motions have been adopted. For instance, Government motions on the following subjects were adopted:

J & K situation (moved by the Prime Minister, Shri Jawaharlal Nehru);<sup>101</sup> report of the Press Commission;<sup>102</sup> working of the Preventive Detention Act, 1950;<sup>103</sup> food situation in the country;<sup>104</sup> report of the Commission of Inquiry into the affairs of LIC of India;<sup>105</sup> White Paper No. II and subsequent correspondence between Governments of India and China;<sup>106</sup> strike of Central Government employees;<sup>107</sup> situation in Assam;<sup>108</sup> Third Five Year Plan;<sup>109</sup> India-China border situation;<sup>110</sup> Pakistan’s attack on Kutch border;<sup>111</sup> Agreement on bilateral relations between India and Pakistan;<sup>112</sup> Tashkent Declaration;<sup>113</sup> report of the Committee on Status of Women;<sup>114</sup> statement on Kashmir;<sup>115</sup> International situation<sup>116</sup> (motion adopted after a lapse of nearly nine years); etc.

### **Statutory Motion\***

Motions tabled in pursuance of a provision in the Constitution or an Act of Parliament are termed ‘statutory motions’. Notice of such a motion may be given either by a Minister or a private member.<sup>117</sup>

---

\*The details of processing of Statutory Motions are given under the Committee on Subordinate Legislation in the Chapter 25.

The typical statutory motions which are moved frequently by Ministers relate to the elections of members of the House to various statutory bodies.

Acts of Parliament which confer power upon the Central Government to make rules, etc. also provide that the rules shall be subject to modification or annulment as Parliament may make within the prescribed period. Members move motions in pursuance thereof and the time for the purpose is made available from the Government time. A motion adopted by the House is required to be concurred in by the other House to make it binding as stipulated in the rule-laying clause in a statute.

The Government moved fourteen motions in the Rajya Sabha concurring in the modifications made by the Lok Sabha in the Displaced Persons (Compensation and Rehabilitation) Rules, 1955. For each rule modified, a separate motion was moved and adopted.<sup>118</sup>

During the 120<sup>th</sup> Session (1981), as many as ten notices of motions given by private members for modification of statutory rules and orders were admitted out of which seven were discussed although none of them was carried.<sup>119</sup>

### **Motion for the removal of the Judge of Supreme Court or High Court**

A Judge of the Supreme Court or of a High Court may, by writing under his hand addressed to the President, resign his office<sup>120</sup> but he cannot be removed from his office except by an order of the President passed after an address by each House of Parliament in the prescribed manner.<sup>121</sup>

The address for the removal of a Judge, whether of the Supreme Court or a High Court, can be presented to the President only on the ground of ‘proved misbehaviour’ or ‘incapacity’. Such an address has to be presented to the President in the same session in which it is passed by each House of Parliament supported by a majority of the total membership of each House and also by a majority of not less than two-thirds of the members of each House present and voting.<sup>122</sup> If the address of both the Houses is in conformity with the aforesaid provisions of the Constitution, the President issues an order for the removal of the Judge from office.

The procedure for the investigation and proof of the misbehaviour or incapacity of a Judge and for the presentation of an address to the President has been prescribed in the Judges (Inquiry) Act, 1968 and the Judges (Inquiry) Rules, 1969.

Under the procedure laid down by the Act, a notice of a motion for presenting an address to the President for the removal of a Judge, if given

in Lok Sabha, is to be signed by not less than one hundred members of the House and if given in Rajya Sabha, by not less than fifty members of that House. The Speaker or the Chairman, as the case may be, after due consideration and consultation, may admit or refuse to admit the motion. Consequent on the admittance of the motion, the Speaker or the Chairman, as the case may be, constitutes a Committee of three members, one each from among (i) the Chief Justice and other Judges of the Supreme Court; (ii) Chief Justices of the High Court; and (iii) distinguished jurists. In case the notices of motion are given on the same day in both the Houses, the Committee will be constituted only if the motion has been admitted in both Houses and thereupon jointly by the Speaker and the Chairman. In case notices of motion are given in both the Houses on different dates, the notice which is given later shall stand rejected.

The Committee will frame definite charges against the Judge on the basis of which investigation is proposed to be held and will have the powers of a civil court in respect of summoning persons for examination on oath, production of documents, etc. The charges together with a statement of the grounds on which each such charge is based, shall be communicated to the Judge and he shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified. In a case of alleged physical or mental incapacity and where such an allegation is denied, a Medical Board will be appointed for the medical examination of the Judge by the Speaker or, as the case may be, the Chairman, or where the Committee has been constituted jointly, by both of them. At the conclusion of the investigation, the Committee will submit its report to the Speaker or to the Chairman, as the case may be, or where the Committee has been constituted jointly, to both of them, stating therein its findings on each of the charges separately with such observations on the whole case as it thinks fit. The report will thereafter be laid before the respective House, or the Houses where the Committee has been appointed jointly by the Speaker and the Chairman.

If the Committee absolves the Judge of any charge of misbehaviour or incapacity, the motion pending in the respective House or Houses, as the case may be, will not be proceeded with. If the report of the Committee contains a finding that the Judge is guilty of any misbehaviour or suffers from any incapacity, the motion will, together with the report of the Committee, be taken up for consideration by the House or the Houses in which it is pending. In the event of the adoption of the motion in accordance with the constitutional provisions, the misbehaviour or incapacity of the Judge will be deemed to have been proved and an address praying for the removal of the Judge will be presented to the President in the prescribed manner by each House of Parliament in the same session in which the motion has been adopted.

In Rajya Sabha, two such notices of motion have been given in the past: (1) A notice of motion under article 217 read with article 124(4) of the Constitution of India was given by Shri Sitaram Yechury and 57 other members seeking for removal of Justice Soumitra Sen of Calcutta High Court on 20 February 2009. The motion was admitted by Hon'ble Chairman, Rajya Sabha and a Rajya Sabha Parliamentary Bulletin Part II dated 27 February 2009 to that effect was issued. The motion was kept pending and a Judges Inquiry Committee was constituted in terms of sub-section (2) of section (3) of the Judges Inquiry Act, 1968. As and when a casual vacancy arose, the Committee was reconstituted by Hon'ble Chairman. A notification in the Gazette of India, Extraordinary, Part II, Section-3, sub-section (iii) and a Parliamentary Bulletin Part-II were issued each time Inquiry Committee was constituted or reconstituted. The Committee had framed definite charges under section 3(3) of the Judges Inquiry Act, 1968 against Justice Soumitra Sen which were communicated to him under section 3(4) of the Act. The Judge was given an opportunity to defend himself before the Committee. The Committee after the conclusion of the investigation gave its report to the Chairman on 10 September 2010. The report of the Committee contained a finding that Justice Soumitra Sen was guilty of misbehaviour. The report alongwith a copy of evidence of witnesses tendered before the Inquiry Committee and documents exhibited during the Inquiry was laid on the Table of Rajya Sabha on 10 November 2010 by the Secretary-General. As required under rule 9(3) of the Judges (Inquiry) Rules, 1969, the report alongwith evidence and documents exhibited during the Inquiry was also laid on the Table of the Lok Sabha on the same day. A copy of the report was sent to Justice Sen who submitted his written reply on 18 January 2011 which was circulated to all members of Rajya Sabha.

It was decided that only the original signatories to the motion received under article 217 read with article 124(4) of the Constitution may give another notice of motion for consideration of the report of Inquiry Committee. Accordingly, notice of motion was received from Shri Sitaram Yechury, Shri Prasanta Chatterjee and Shri Arun Jaitley, Leader of Opposition which was admitted and listed as 'no-day-yet-named motion' under rule 170 of the Rules of Procedure and Conduct of Business in the Rajya Sabha. A Parliamentary Bulletin Part II dated 11 August 2011 was also issued.

The Chairman, Rajya Sabha in consultation with the Ministry of Parliamentary Affairs and the Leader of Opposition decided that the motion would be taken up in Rajya Sabha on 17 and 18 August 2011 and Justice Sen would be given an opportunity to make his presentation in the House on 17 August 2011. Accordingly an item, in three parts, containing the original motion, the subsequent motion and an address to be presented to

the President of India were included in the list of business for 17 and 18 August 2011.

On 17 August 2011 Shri Sitaram Yechury moved the motion for consideration of the report and spoke on it. Thereafter, Justice Soumitra Sen addressed the House from the bar of the House at the entry of the Rajya Sabha Chamber with a raised lectern/podium facing the Chair which was specially created for the occasion. After Justice Sen, the Leader of Opposition and other members also spoke. The discussion on the motion concluded on 18 August 2011 and thereafter it was put to vote. The motion and address to the President were adopted by the House by special majority as provided under article 124(4) of the Constitution with 189 members voting in favour and 16 members against the motion. A message from the Secretary-General, Rajya Sabha to the Secretary-General, Lok Sabha dated 18 August 2011 was communicated along with the certified copy of the address as passed by Rajya Sabha to be presented to the President.

In Lok Sabha, the motion along with the address was listed for consideration on 5 September 2011. The motion was proposed in the name of Hon'ble Speaker, Lok Sabha. However, before the other House could take up the matter, Justice Sen resigned from office on 1 September 2011. Subsequently, Lok Sabha at its sitting held on 5 September 2011 agreed that the motion and the address for presenting to the President praying for the removal from office of Justice Soumitra Sen of Calcutta High Court may not be proceeded with. Secretary-General, Lok Sabha communicated a message to Secretary-General, Rajya Sabha which was reported in Rajya Sabha on 6 September 2011.<sup>123</sup>

(2) On 14 December 2009, three notices of motion, each signed by several members of Rajya Sabha for presenting an address to the President of India for the removal of Mr. Justice Paul Daniel Dinakaran, Chief Justice of the Karnataka High Court, under article 217 read with article 124(4) of the Constitution of India were received. The first notice had been signed by 49 members of Rajya Sabha. The second notice had been signed by 24 members of Rajya Sabha and the third notice had been signed by two members of Rajya Sabha. All the three notices taken together, thus, had been signed by 75 members of Rajya Sabha. The motion was admitted by the Chairman, Rajya Sabha on 17 December 2009 and a Rajya Sabha Parliamentary Bulletin Part II dated 17 December 2009 was issued to that effect. The motion was kept pending and a Judges Inquiry Committee was constituted in terms of sub-section (2) of section (3) of the Judges Inquiry Act, 1968. A notification in the Gazette of India, Extraordinary, Part II, section-3, sub-section (iii) and a Parliamentary Bulletin Part-II were issued

each time Inquiry Committee was constituted or reconstituted. Justice P.D. Dinakaran was, meanwhile, transferred as Chief Justice of the Sikkim High Court. The Committee had framed definite charges under section 3(3) of the Judges Inquiry Act, 1968 against Justice Dinakaran which were communicated to him under section 3(4) of the Act. The Judge was given an opportunity to defend himself before the Committee. Pending the outcome of the enquiry, Justice P.D. Dinakaran resigned from office w.e.f. afternoon of 29 July 2011 and a notification dated the 16 August 2011 was issued by the Department of Justice to that effect. In view of the resignation by Justice P.D. Dinakaran, Hon'ble Chairman, *vide* his order dated the 23 September 2011 wound up Inquiry Committee and a notification dated 4 October 2011 in the Gazette of India, Extraordinary, Part II, section-3, sub-section (iii) and a Parliamentary Bulletin Part-II dated 11 October 2011 were issued in this regard.<sup>124</sup>

### **Short duration discussions**

In the Rajya Sabha until 1964, there was no specific provision for short duration discussion of urgent nature. The Committee appointed to recommend Draft Rules of Procedure under clause (1) of article 118 of the Constitution made the following observations:

In considering these rules, the Committee took note of the feeling among some members that the procedure relating to "Motion for Papers" was so stringent that in practice it was found difficult to get any notice admitted under this procedure. The "no-day-yet-named motion" procedure also does not provide members with adequate opportunity to raise discussions on matters of urgent public importance at short notice. The Committee has, therefore, recommended that provision should be made in the Rajya Sabha rules enabling members to give notices of calling attention to matters of urgent public importance and to raise discussions on matter of urgent public importance for short duration.<sup>125</sup>

A member desirous of raising discussion on a matter of urgent public importance for short duration has to give notice in writing specifying clearly and precisely the points on which he wishes the discussion to be raised. The notice is required to be accompanied by an explanatory note stating reason for raising discussion on the matter in question and has to be supported by the signatures of at least two other members.<sup>126</sup>

If the Chairman is satisfied after calling for such information from the member who has given the notice and from the Minister as he may consider necessary that the matter sought to be raised is urgent and is of sufficient importance to be raised in the House at an early date, he admits the notice. In case an early opportunity is otherwise available for the

discussion of the matter in question, the Chairman may disallow the notice.<sup>127</sup>

Notices for short duration discussion after admission are notified in the Bulletin. It is the Business Advisory Committee which generally allots time for the discussion. After a notice is admitted and a date is fixed for discussion, the item is included in the list of business for that date, in the names of all members from whom notices are received, including their supporters.

If the member in whose name the short duration discussion stands is absent or does not raise the discussion, when called, the member next in the list of business is called to do so and so on.

The short duration discussion on the CAG Report on Bofors was listed in the names of six members. The first five members did not raise it; the sixth member then raised the discussion.<sup>128</sup>

There is no formal motion before the House nor there is any voting. The member who has given the notice raises the discussion by making a short statement. Thereafter other members are allowed to take part in the discussion and at the end the Minister concerned gives a brief reply. The member who has raised the discussion has no right of reply.<sup>129</sup>

The Chairman may, if he thinks fit, prescribe a time-limit for speeches.<sup>130</sup> The Chairman may allow such time for discussion, not exceeding two and a half hours, as he may consider appropriate in the circumstances.<sup>131</sup> However, in view of the importance of the subject-matter of the discussion, the time-limit of two and a half hours may exceed, as has happened more often than not, so much so that on occasions the heading ‘Short Duration’ becomes misnomer,<sup>132</sup> the discussion resulting in a ‘Long Duration’ one. There have been a number of short duration discussions which have extended well beyond even four hours.<sup>133</sup>

There have been occasions when more than two short duration discussions have been listed and discussed at the same sitting.<sup>134</sup> There have also been instances when the discussion was concluded on a matter raised at a previous sitting and thereafter another short duration discussion was taken up.<sup>135</sup>

#### **No-day-yet-named motion and short duration discussion—difference**

There is a marked distinction between the two devices, namely, a no-day-yet-named motion and a short duration discussion. While the former is a motion for raising ‘a matter of *general* public interest’, the latter is for raising ‘a matter of *urgent* public importance’. In the case of a motion, an amendment can be tabled, the mover of the motion has a right of reply

and the motion may be put to the vote of the House; in the case of a short duration discussion, there is no formal motion before the House nor voting; the member concerned raises the discussion and the Minister concerned replies.

In the early years of the Rajya Sabha there used to be a practice that whenever notice of a short duration discussion was received, the same was first admitted as a no-day-yet-named motion. Thereafter, it was placed before the Business Advisory Committee. In case, the Business Advisory Committee recommended that the time should be allocated in order to discuss that particular matter then the notice of short duration discussion was revived and published in the Bulletin Part-II under the caption ‘Short Duration Discussion’.

Notices of motions and short duration discussion for discussion on the reports of the Shah Commission were admitted and notified under the caption ‘no-day-yet-named motion’ in the Bulletin. The Business Advisory Committee recommended that the reports should be discussed under rule 176 and accordingly the motion was listed for discussion under that rule. Several members objected to this procedure. The Deputy Chairman explaining the position in detail in the House stated:

Since a long time the names of members who had given notices under rule 176 were appended to notices of motions already admitted as no-day-yet-named motion under rules 170 and 171. If no such motion under rule 170 was there, still the short duration discussion notices were converted into no-day-yet-named motions in the first instance and again revived as short duration discussion if and when it was decided to take up the subject for a short duration discussion notice under rule 176. The intention behind this procedure appears to be to keep all the members informed of the motions received on a particular subject... In the past also, as stated by me earlier, this procedure had been followed and no objection was raised at any time. I, therefore, feel that no irregularity has been committed in this case.<sup>136</sup>

The above practice has now been discontinued. Nonetheless, whether a matter should be discussed by way of a motion under rule 167 or a short duration discussion under rule 176, sometimes becomes crucial and controversial. The Rajya Sabha does not have a procedure for moving of an adjournment motion, censure motion or no-confidence motion against the Government. Apart from a private member’s resolution, moving of a motion under rule 167 is the only procedure where the House can record its opinion and members can move amendments to such a motion which may be put to the vote of the House and even adopted (as in the case of 10 August 1978 motion and the motion moved on 18 December 2000, which was adopted on 19 December 2000). While the opposition may have its

own reasons to employ the device under rule 167 (to embarrass or criticise the Government), the Government may view it as a sort of adverse vote. Hence, the controversy. Two recent instances may be cited in this respect.

Before the short duration discussion on the report of the Joint Parliamentary Committee on Bofors was taken up, a point of order was raised by a member about the procedure adopted for consideration of the report. The member, *inter alia*, contended that had the Government come forward with a substantive motion rather than a short duration discussion members could have given amendments thereto. The Deputy Chairman ruled that generally such reports were not discussed. However, in view of the importance of the subject-matter, as an exception, it was being discussed; and it was thought more appropriate to discuss it by way of a short duration discussion than by way of a motion.<sup>137</sup>

In the case of Hawala issue also there was controversy as to how the House should discuss the issue. Some opposition members demanded discussion under rule 167(motion), while the ruling party members wanted it to be under rule 176 (Short duration discussion). Members expressed their views in favour or against having the discussion under rule 167 or rule 176, as the case may be. A sort of deadlock prevailed and eventually, the House adjourned *sine die* without discussing the issue.<sup>138</sup>

#### **Conversion of notices of motion to short duration discussion**

During 211<sup>th</sup> Session, the Chairman, Rajya Sabha gave following ruling on the notices received:

"I have received several notices under rule 168 on matters pertaining to the Indo-US Nuclear Agreement. On scrutiny of these notices, I have found that in some of the motions a demand has been made to disapprove or reject the agreement or have a vote of the House on it. In other cases, a demand has been made for renegotiation of the agreement. There are other notices of motions, again, under rule 168, in which a demand has been made to have a discussion on the Agreement. Since it is not a constitutional obligation for the Executive to have the approval of Parliament on any international treaty or agreement, admittance of these motions which involve approval of Parliament would not be in order. I am, therefore, converting these notices into notices for discussion under rule 176. The Business Advisory Committee has already identified this subject for discussion."<sup>139</sup>

During 223<sup>rd</sup> Session, a notice of motion under rule 168 was given by the Leader of Opposition in Rajya Sabha on the *suo moto* statement laid on the Table of the House by the Minister of State (Independent Charge) of the Ministry of Youth Affairs and Sports regarding Commonwealth Games, 2010. However, it was later decided in consultation with the Minister of

Parliamentary Affairs and the Leader of Opposition to convert the notice of motion into notice of Short Duration Discussion under rule 176. The discussion took place in the House on 9 August 2011.<sup>140</sup>

### **Short duration discussions on important subjects**

Notwithstanding the controversies, there is a growing trend to discuss important matters by way of short duration discussion. Some of the important issues which have been discussed under this procedure are the following:

Abolition of privy purses;<sup>141</sup> unscheduled prorogation of the Madhya Pradesh Legislative Assembly;<sup>142</sup> rule, power, functions and method of appointment of Governors;<sup>143</sup> implementation of official language policy by the Government;<sup>144</sup> UN Security Council Resolution on cease-fire between India and Pakistan;<sup>145</sup> British immigration law;<sup>146</sup> constitutional developments in Punjab, particularly in the context of events in the Punjab Legislative Assembly;<sup>147</sup> constitutional position in relation to the prorogation of Madhya Pradesh Legislative Assembly by Governor;<sup>148</sup> entry of policemen in West Bengal Legislative Assembly while it was in session;<sup>149</sup> role of Governors in the formation of Ministries (in the context of Uttar Pradesh and Bihar) and the constitutional implications thereof;<sup>150</sup> constitutional implications of the prorogation of Haryana Assembly after admission of a no-confidence motion against the Council of Ministers;<sup>151</sup> allegation of use of money in biennial elections to the Rajya Sabha and its implications in the working and preservation of parliamentary democracy;<sup>152</sup> role of Governor of Uttar Pradesh in the issue of Proclamation under article 356 in relation to that State;<sup>153</sup> allegations made in the House by a member during the Appropriation (No. 3) Bill, 1972 regarding printing of posters by a company of Calcutta, in violation of company law;<sup>154</sup> action taken by the Government on the memorandum submitted to the President regarding allegations of corruption and misuse of power by a Chief Minister;<sup>155</sup> supersession of three Judges of the Supreme Court and their resignations;<sup>156</sup> underground nuclear explosion conducted in Pokharan in Rajasthan on 18 May 1974;<sup>157</sup> Pondicherry import license case;<sup>158</sup> Proclamations in respect of nine States;<sup>159</sup> agreement between India and Bangladesh regarding sharing of Ganga waters;<sup>160</sup> reports of Justice Shah Commission of Inquiry;<sup>161</sup> industrial policy;<sup>162</sup> report of Commission of Inquiry into Jamshedpur riots;<sup>163</sup> growing corruption in the country;<sup>164</sup> Kuo-oil deal;<sup>165</sup> report of second Backward Class Commission;<sup>166</sup> non-implementation of Mandal Commission Report;<sup>167</sup> import of animal tallow;<sup>168</sup> development in Andhra Pradesh leading to a change in Government there;<sup>169</sup> aspects of black economy in the country;<sup>170</sup> Supreme Court judgement in the Indian Express Building case;<sup>171</sup> reported statements of some Union Ministers against certain State Governments and judiciary;<sup>172</sup> security environment in the country;<sup>173</sup> electoral reforms;<sup>174</sup> Bofors gun deal;<sup>175</sup>

incidents of Sati;<sup>176</sup> report of J.J. Thakkar-Natarajan Commission on Fairfax;<sup>177</sup> HDW sub-marine deal;<sup>178</sup> report of Joint Parliamentary Committee on Bofors;<sup>179</sup> CAG report on Bofors;<sup>180</sup> Government's decision to implement Mandal Commission Report;<sup>181</sup> inadequate security to the former Prime Minister, Shri Rajiv Gandhi;<sup>182</sup> progress of investigation into Bofors deal;<sup>183</sup> award of contract to ABB for purchase of electric locomotives;<sup>184</sup> demolition of Ram Janmabhoomi-Babri Masjid structure;<sup>185</sup> report of Verma Commission on assassination of Shri Rajiv Gandhi;<sup>186</sup> securities scam<sup>187</sup> and JPC report thereon;<sup>188</sup> formulation of country's final decision on GATT;<sup>189</sup> import of sugar;<sup>190</sup> situation in Charar-e-Sharief (raised on a motion though not formally moved, the Prime Minister replied);<sup>191</sup> nexus between criminals and politicians in the context of Vohra Committee Report;<sup>192</sup> situation in J&K;<sup>193</sup> move to invite private Indian and foreign firms in the insurance sector;<sup>194</sup> functioning of WTO and participation of India in the International Trade negotiations<sup>195</sup> the issues raised by the former Advisor to the Finance Minister and the alleged improprieties arising thereof;<sup>196</sup> the disinvestments policy of the Government;<sup>197</sup> the National Telecom Policy-1999;<sup>198</sup> the failure of the Government of India to discharge its constitutional responsibility to protect secularism which is one of the basic tenets of the Constitution of India by not prevailing upon the State Government of Gujarat to withdraw the circular removing the ban imposed on the State Government employees in participating in the activities of RSS;<sup>199</sup> the role of Governors in discharging their constitutional responsibilities in the formation of Governments in States in the light of recent events in Bihar;<sup>200</sup> steps taken by the Government in pursuance of the motion adopted under rule 170 by Rajya Sabha on 6 May 2002, to intervene in the State of Gujarat under article 355 of the Constitution of India;<sup>201</sup> disinvestment of public sector undertakings;<sup>202</sup> Tenth Five Year Plan as adopted by the National Development Council;<sup>203</sup> role of CBI in the Babri Masjid demolition case;<sup>204</sup> fake stamp papers scam in the country involving several thousand crores of rupees;<sup>205</sup> Indo-US nuclear deal;<sup>206</sup> misuse of funds under NREGP;<sup>207</sup> attacks on North Indians in Maharashtra;<sup>208</sup> rise in prices of essential commodities;<sup>209</sup> Liberhan Commission Report and trial of Babri Masjid case;<sup>210</sup> Bhopal gas tragedy;<sup>211</sup> payment of cash for votes;<sup>212</sup> bomb blasts in Mumbai;<sup>213</sup> purchase of VVIP helicopters from Augusta Westland by Ministry of Defence;<sup>214</sup> and atrocities against women and children.<sup>215</sup>

#### NOTES AND REFERENCES

1. Abraham & Hawtrey, *A Parliamentary Dictionary*, 2<sup>nd</sup> Edn., p. 122.
2. R. 246.
3. Rs. 247 and 248.
4. Abraham & Hawtrey , *op.cit.*
5. Rs. 7, 15 and 215.

6. R. 238(v).
7. Arts. 61, 121, 124(4) & (5), 148(1) and 324(5) respectively.
8. Arts. 67(b) and 90(c) respectively.
9. Rs. 7(2) and 15.
10. R. 167.
11. R. 168.
12. R. 169(i) to (xviii).
13. R. 170.
14. R. 171.
15. Bn. (II), 19.2.1959.
16. *Ibid.*, 21.2.1959; and Bn. (I) 26.2.1959.
17. *Ibid.*, 10.8.1962.
18. *Ibid.*, 17.8.1962.
19. R.S. Deb., 21.8.1962, c. 2614-23.
20. Bn. (I), 4.12.1967.
21. Bn. (II), 26.2.1979.
22. Bn. (I), 12.12.1967 and 13.12.1967.
23. *Ibid.*, 5.3.1968 and 6.3.1968.
24. R.S. Deb., 3.9.1963, c. 2633.
25. *Ibid.*, 21.12.1956, c. 3438 and 3451.
26. Bn. (I), 30.8.1957.
27. *Ibid.*, 11.8.2005.
28. *Ibid.*, 29.11.2005.
29. *Ibid.*, 5.8.2010.
30. *Ibid.*, 6.12.2012 and 7.12.2012.
31. R.S. Deb., 7.4.1971, c. 209.
32. R. 228.
33. Bn. (I), 10.4.1990.
34. R. 229(1).
35. R. 229(2), see also R.S. Deb., 5.8.1991, c. 171-82 re. withdrawal of statutory resolution disapproving the Code of Criminal Procedure (Amendment) Ordinance, 1991.
36. R.S. Deb., 31.5.1967, c. 1604-05.
37. R. 230.
38. Abraham & Hawtrey, *op. cit.* p. 86.
39. Norman Wilding & Philip Laundy, *An Encyclopaedia of Parliament*, London, Cassell and Company Ltd., p. 147.
40. Abraham & Hawtrey, *op. cit.* p. 2.
41. Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 24<sup>th</sup> Edn., pp. 405-06.
42. R. 231(1).
43. R. 231(2).
44. R. 231(3).
45. R. 232.
46. R. 233(1).
47. R. 233(2).
48. Bn. (I), 11.9.1959.
49. *Ibid.*, 31.3.1965.
50. *Ibid.*, 23.12.1967.
51. *Ibid.*, 19.12.1967.
52. *Ibid.*, 24.3.1983.
53. *Ibid.*, 29.8.1968.
54. *Ibid.*, 22.11.1967.
55. *Ibid.*, 11.9.1974.
56. *Ibid.*, 10.5.1963.

- 
57. Bn. (I), 19.9.1963.
  58. *Ibid.*, 24.3.1970.
  59. *Ibid.*, 10.8.1978.
  60. *Ibid.*, 19.12.2000.
  61. Bn. (II), 25.11.2005.
  62. Bn. (I), 24.4.2002.
  63. LoB, 4.8.2010.
  64. Bn. (I), 6.12.2012.
  65. Bn. (II), 31.7.1978.
  66. *Ibid.*, 4.8.1978.
  67. R.S. Deb., 10.8.1978, c. 235-46.
  68. *Ibid.*, c. 251-52, *see also* R.S. Deb., 3.8.1978, c. 206-20.
  69. Bn. (I), 10.8.1978.
  70. R.S. Deb., 11.8.1978, c. 130-44.
  71. *Ibid.*, 17.8.1978, c. 163-207; *and* Bn. (I), 17.8.1978.
  72. *Ibid.*, 21.8.1978, c. 139-83.
  73. *Ibid.*, 24.8.1978, c. 189-264 *and* 280-333.
  74. *Ibid.*, 29.8.1978, c. 6-49.
  75. Bn. (II), 22.11.1978, 13.12.1978, 14.12.1978, 13.1.1979 *and* 8.2.1979.
  76. *Ibid.*, 3.2.1979.
  77. *Ibid.*, 16.2.1979.
  78. R.S. Deb., 23.2.1979, c. 227-28.
  79. *Ibid.*, 26.2.1979, c. 174-211; *and* 27.2.1979, c. 125-32.
  80. *Ibid.*, 4.2.1980, c. 32-64.
  81. *Ibid.*, 5.2.1980, c. 1-2.
  82. Bn. (I), 24.4.2002.
  83. *Ibid.*, 19.12.1955.
  84. *Ibid.*, 29.4.1960.
  85. *Ibid.*, 24.1.1963.
  86. *Ibid.*, 24.8.1965.
  87. *Ibid.*, 12.8.1969 *and* 13.8.1969.
  88. *Ibid.*, 24.7.1984 *and* 25.7.1984.
  89. *Ibid.*, 14.8.1984.
  90. *Ibid.*, 8.8.1986.
  91. *Ibid.*, 28.11.1988 *and* 30.11.1988.
  92. *Ibid.*, 14.8.1971.
  93. *Ibid.*, 3.12.1981.
  94. *Ibid.*, 10.5.1978, 9.9.1981 *and* 10.9.1981.
  95. *Ibid.*, 13.8.1984 *and* 17.8.1984.
  96. *Ibid.*, 2.12.1986, 3.12.1986 *and* 4.12.1986.
  97. *Ibid.*, 4.4.1989.
  98. *Ibid.*, 12.12.1974.
  99. R.S. Deb., 26.11.1973, c. 131-37.
  100. *Ibid.*, 19.12.1955, c. 3183.
  101. Bn.(I), 5.8.1952.
  102. *Ibid.*, 14.9.1955.
  103. *Ibid.*, 31.5.1956.
  104. *Ibid.*, 18.12.1957.
  105. *Ibid.*, 21.2.1958.
  106. *Ibid.*, 9.12.1959.
  107. *Ibid.*, 23.8.1960.
  108. *Ibid.*, 9.9.1960.
  109. *Ibid.*, 31.8.1961.
  110. *Ibid.*, 22.8.1962.

111. Bn.(I), 3.5.1965.
112. *Ibid.*, 3.8.1972.
113. *Ibid.*, 22.2.1966.
114. *Ibid.*, 13.5.1975.
115. *Ibid.*, 13.3.1975.
116. *Ibid.*, 17.12.1981.
117. The prescribed time period has been dealt in detail in separate chapter under Committee on Subordinate Legislation.
118. R.S. Deb., 15.9.1955, c. 3208-3300.
119. See also Bn. (I), 24.9.1954, 30.9.1954, 10.12.1970 and 14.5.1986.
120. Arts. 124(2)(a) and 217(1)(a).
121. Arts. 124(4) & (5) and 218.
122. Arts. 124(4) and 217(1)(b).
123. F. No. RS 8/2/2009-L.
124. F. No. RS 8/3/2009-L.
125. Rpt. of the Committee on Draft Rules of Procedure (1963), p. (vi).
126. R. 176.
127. R. 177.
128. R.S. Deb., 21.7.1989, c. 236.
129. R. 178
130. R. 179.
131. R. 177.
132. On some occasions, the heading ‘Short Duration Discussion’ was omitted from the list of business. See for instance, LoB 12.12.1991 (regarding discussions on terrorism and closure of Public Sector Undertakings).
133. For some instances see, Bn. (I), 11.11.1987, 12.11.1987, 13.11.1987, 16.11.1987, 17.11.1987, 18.11.1987, 19.11.1987, 14.12.1987, 28.4.1988, 29.4.1988, 11.5.1988, 12.5.1988, 2.8.1988, 3.8.1988, 4.8.1988, 15.11.1988, 16.11.1988, 21.7.1989, 25.7.1989, 27.7.1989, 7.8.1990, 8.8.1990, 1.10.1990, 5.10.1990, 22.2.1991, 25.2.1991, 4.6.1991, 12.12.1991, 16.12.1991, 17.12.1991, 19.12.1991, 2.4.1992, 18.12.1992, 21.12.1992, 9.7.1993, 29.12.1993, 30.12.1993, 9.3.1994, 15.3.1994, 8.8.1995, 9.8.1995, 23.8.1995, 24.8.1995, 29.11.1995, 4.12.1995, 17.7.1996, 3.12.1996, 5.12.1996, 6.3.1997, 10.3.1997, 28.7.1997, 29.7.1997, 30.7.1997, 5.8.1997, 6.8.1997, 28.5.1998, 29.5.1998, 15.7.1998, 7.12.1998, 8.12.1998, 13.3.1999, 15.3.1999, 30.11.1999, 28.2.2000, 1.3.2000, 2.3.2000, 25.4.2000, 26.4.2000, 27.7.2000, 31.7.2000, 1.8.2000, 27.11.2000, 28.11.2000, 24.7.2001, 25.7.2001, 30.7.2001, 31.7.2001, 1.8.2001, 2.8.2001, 8.8.2001, 9.8.2001, 10.8.2001, 16.8.2001, 17.8.2001, 20.8.2001, 27.8.2001, 28.8.2001, 22.11.2001, 26.11.2001, 27.11.2001, 4.12.2001, 5.12.2001, 10.12.2001, 7.3.2002, 11.3.2002, 18.7.2002, 23.7.2002, 24.7.2002, 31.7.2002, 1.8.2002, 21.11.2002, 22.11.2002, 4.12.2002, 23.7.2003 and 5.8.2003, 26.7.2005, 22.8.2005, 23.8.2005, 23.8.2006, 30.9.2006, 22.9.2007, 4.12.2007, 5.12.2007, 4.8.2009, 3.8.2011 and 7.12.2011.
134. For instance, see R.S. Deb., 26.8.1995, 22.8.2005, 23.8.2005 and 5.12.2007.
135. For instances, see R.S. Deb., 11.11.1987, 4.8.1988, 16.11.1988 and 19.12.1991.
136. R.S. Deb., 13.12.1978, c. 215-20.
137. *Ibid.*, 11.5.1988, c. 365-90.
138. *Ibid.*, 11.3.1996 and 12.3.1996.
139. *Ibid.*, 20.8.2007. p. 211.
140. Bn.(I), 9.8.2011.
141. *Ibid.*, 31.7.1967.
142. *Ibid.*, 24.7.1967.
143. *Ibid.*, 20.11.1967.
144. *Ibid.*, 22.2.1965 and 23.2.1965.
145. *Ibid.*, 24.9.1965.
146. *Ibid.*, 29.2.1968.

- 
147. Bn.(I), 20.3.1968.
  148. *Ibid.*, 13.3.1969.
  149. *Ibid.*, 5.8.1969.
  150. *Ibid.*, 24.2.1970.
  151. *Ibid.*, 5.3.1970.
  152. *Ibid.*, 28.7.1970.
  153. *Ibid.*, 24.11.1970.
  154. *Ibid.*, 1.6.1972.
  155. *Ibid.*, 30.3.1973.
  156. *Ibid.*, 3.5.1973.
  157. *Ibid.*, 21.8.1974.
  158. *Ibid.*, 4.12.1974.
  159. *Ibid.*, 14.6.1977.
  160. *Ibid.*, 28.11.1977.
  161. *Ibid.*, 23.5.1979.
  162. *Ibid.*, 15.12.1980.
  163. *Ibid.*, 18.9.1981.
  164. *Ibid.*, 6.5.1982.
  165. *Ibid.*, 29.7.1982.
  166. *Ibid.*, 13.10.1982.
  167. *Ibid.*, 26.8.1983.
  168. *Ibid.*, 16.11.1983.
  169. *Ibid.*, 21.8.1984.
  170. *Ibid.*, 14.8.1985.
  171. *Ibid.*, 28.11.1985.
  172. *Ibid.*, 29.7.1986.
  173. *Ibid.*, 7.11.1986.
  174. *Ibid.*, 4.12.1986.
  175. *Ibid.*, 20.4.1987, 21.4.1987, 2.8.1988, 3.8.1988, 4.8.1988, 15.11.1988, 16.11.1988 and 13.10.1989.
  176. *Ibid.*, 10.11.1987.
  177. *Ibid.*, 14.12.1987.
  178. *Ibid.*, 28.4.1988 and 29.4.1988.
  179. *Ibid.*, 11.5.1988 and 12.5.1988.
  180. *Ibid.*, 21.7.1989, 25.7.1989 and 27.7.1989.
  181. *Ibid.*, 1.10.1990 and 5.10.1990.
  182. *Ibid.*, 4.6.1991.
  183. *Ibid.*, 2.4.1992.
  184. *Ibid.*, 3.4.1992.
  185. *Ibid.*, 18.12.1992 and 21.12.1992.
  186. *Ibid.*, 14.5.1993.
  187. *Ibid.*, 9.7.1992.
  188. *Ibid.*, 29.12.1993 and 30.12.1993.
  189. *Ibid.*, 9.3.1994 and 15.3.1994.
  190. *Ibid.*, 28.8.1994 and 26.8.1994.
  191. *Ibid.*, 15.5.1995 and 16.5.1995.
  192. *Ibid.*, 8.8.1995, 23.8.1995 and 24.8.1995.
  193. *Ibid.*, 29.11.1995 and 4.12.1995.
  194. *Ibid.*, 11.12.1996.
  195. *Ibid.*, 27.7.1998.
  196. *Ibid.*, 13.3.1999 and 15.3.1999.
  197. *Ibid.*, 13.12.1999.
  198. *Ibid.*, 20.12.1999.
  199. *Ibid.*, 28.2.2000, 1.3.2000 and 2.3.2000.

200. Bn.(I), 13.3.2000.
201. *Ibid.*, 23.7.2002 and 24.7.2002.
202. *Ibid.*, 4.12.2002.
203. *Ibid.*, 29.4.2003.
204. *Ibid.*, 23.7.2003.
205. *Ibid.*, 22.12.2003.
206. *Ibid.*, 4.12.2007 and 5.12.2007.
207. *Ibid.*, 5.12.2007, 6.12.2007 and 7.12.2007.
208. *Ibid.*, 5.3.2008.
209. *Ibid.*, 4.8.2009 and 6.8.2009.
210. *Ibid.*, 9.12.2009 and 10.12.2009.
211. *Ibid.*, 11.8.2010.
212. *Ibid.*, 23.3.2011.
213. *Ibid.*, 3.8.2011 and 4.8.2011.
214. *Ibid.*, 27.2.2013.
215. *Ibid.*, 22.4.2013.

## CHAPTER–24

### Procedure in Financial Matters

#### **The Budget**

In respect of every financial year, the President causes to be laid before both Houses of Parliament an “annual financial statement” - a statement of the estimated receipts and expenditure of the Government of India.<sup>1</sup> The annual financial statement, otherwise known as the ‘Budget’, is presented in two parts, viz., the Railway Budget pertaining to Railway Finance, and the General Budget which gives an overall picture of the financial position of the Government of India, excluding Railways.

The Budget is presented on such a day as the President directs.<sup>2</sup> By convention the Railway Budget is presented to the Lok Sabha sometime in the third week of February and the General Budget is generally presented on the last working day of February each year.<sup>3</sup> Simultaneously, copies of the respective Budgets are laid on the Table of the Rajya Sabha.

On an occasion the Interim Railway Budget which was presented to the Lok Sabha on 27 February 1996, could not be laid on the Table of the Rajya Sabha that day as the House adjourned due to disorder. The Budget was laid the next day.<sup>4</sup>

In 1953, the Railway Budget for 1953-54 was laid on the Table by the Leader of the House in the absence of the Railway Minister who was to speak in the other House.<sup>5</sup>

In an election year, the Budget may be presented twice – first to secure a Vote on Account for a few months and later, in full, on a day convenient to the Government.

A few days before the commencement of the Budget session, the Ministry of Parliamentary Affairs forwards to the Secretariat a provisional programme of dates for the financial business to be transacted during that session. This is published in the Bulletin for the information of the members.<sup>6</sup>

The estimates of expenditure embodied in the annual financial statement show separately the sums required to meet expenditure which the Constitution has ‘charged’ upon the Consolidated Fund of India and the sums required to meet other expenditure.<sup>7</sup> The charged expenditure is not

required to be submitted to the vote of Parliament but it can be discussed in either House of Parliament.<sup>8</sup> The other expenditure is required to be submitted in the form of demands for grants to the Lok Sabha which has the exclusive power to assent, or to refuse to assent, any demand, or to assent to any demand subject to a reduction of the amount specified therein.<sup>9</sup>

### Distribution of Budget sets

Sets of the Budget Papers consisting of Finance Minister's speech (Parts A & B); Budget of the Union Government; Explanatory Memorandum on the Budget; Budget at a Glance; Finance Bill; Memorandum explaining the provisions in the Finance Bill; Summary of Demands for Grants; Key to the Budget Documents; Books of Demands for Grants are received from the Ministry of Finance for distribution to members. These are distributed to members in the Outer Lobby of the Chamber, after the budget is laid on the Table of the Rajya Sabha. Members are informed about the procedure for the collection of the Budget sets, through a paragraph in the Parliamentary Bulletin Part-II.<sup>10</sup>

### Alleged leakage of Finance Bill

On 2 March 1970, some members complained in the House that members of Rajya Sabha were not supplied with Budget Papers on 28 February 1970, while the members of the Lok Sabha were supplied with the Budget Papers on time. They further said that the Finance Bill was introduced in the Lok Sabha after 10.00 p.m. on the day of the presentation of the Budget but the Budget sets (which contained the Finance Bill) were distributed to members earlier. Members contended that there was a leakage of Budget-taxation proposals—inasmuch as copies of the Finance Bill were circulated to members before its introduction in the Lok Sabha.<sup>11</sup> On this point, the Chairman gave the following ruling:

At the sitting of the Rajya Sabha on the March 2 some hon'ble members raised certain points regarding the introduction and circulation of the Finance Bill, 1970. I promised to look into the matter and give my views thereon. Under article 112 of the Constitution a statement of the Estimated Receipts and Expenditure of the Government of India in respect of every financial year has to be laid before both Houses of Parliament. Pursuant to this provision a statement of Estimated Receipts and Expenditure of the Government of India for 1970-71 was laid on the Table of the Rajya Sabha on February 28. This statement does not include the Finance Bill which is not laid on the Table of the Rajya Sabha at this stage. The Finance Bill is introduced in the Lok Sabha and is formally laid on the Table of the Rajya Sabha only

after it is passed by that House. No question of leakage of the Budget is involved as the taxation proposals contained in Part-B of the Budget had been known to the members of the Lok Sabha during the Budget speech and the Budget Papers were distributed after that speech.

Copies of the Finance Bill, however, form part of the Budget Papers circulated to the members. The Rajya Sabha members got their Budget Papers distributed at their residences on the night of February 28. We, in the Rajya Sabha, are not concerned with the question of circulation of the Finance Bill before its formal introduction in the Lok Sabha. This is a matter for the Lok Sabha. The facts and circumstances relating to this, it appears, were explained to the Lok Sabha at its special sitting on February 28 when the Bill was formally introduced in that House. The matter should, therefore, end there. This House will consider the Finance Bill when it is transmitted to us after it is passed in the Lok Sabha in due course.<sup>12</sup>

### **Alleged leakage of Budget**

A member raised an interesting point regarding the alleged leakage of the Budget. On 29 February 1984, while the Minister of Finance was laying the Budget on the Table at 6.32 p.m., the member raised a point that the Budget had been leaked since it was already broadcast at 6.30 p.m. on that day through AIR Bulletin. He followed up his contention with a written notice of breach of privilege and raised the matter again on 1 March 1984. The Chairman ruled on the file: "Law does not take account of trifles (*De minimis non curat lex*). Two minutes do not raise a question of privilege." The notice was disallowed.<sup>13</sup>

### **General discussion on Budget**

There is no discussion on the Budget on the day on which it is presented.<sup>14</sup> On subsequent days and for such time as the Chairman allots for this purpose, the House is at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion is moved nor is the Budget submitted to the vote of the House.<sup>15</sup> The Chairman may, if he thinks fit, prescribe a time-limit for speeches.<sup>16</sup> The Finance Minister (includes any Minister)<sup>17</sup> has a general right of reply at the end of the discussion.<sup>18</sup> In case of the Railway Budget, the same procedure applies and the Minister of Railways replies at the end of the discussion thereon.

Notwithstanding that a day has been allotted for financial business, a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced on such day before the House enters on that business for which the day has been allotted.<sup>19</sup> Financial business in

this context includes any business which the Chairman holds as coming within this category under the Constitution.<sup>20</sup>

There had been occasions in the past when the general discussion on the General Budget was initiated in the Rajya Sabha before it commenced in the Lok Sabha.

The Rajya Sabha commenced general discussion on the Budget (General) 1955-56 on 3 March 1955, whereas in the Lok Sabha it commenced on 16 March 1955; the general discussion on Budget (General) 1959-60, commenced in the Rajya Sabha on 3 March 1959, whereas in the Lok Sabha it commenced on 9 March 1959. In 1963, the general discussion on the Budget (General) commenced in the Rajya Sabha and Lok Sabha, respectively on 4 March and 12 March. In 1965, the general discussion on the Budget (General) took place in the Rajya Sabha and Lok Sabha, respectively on 10 and 22 March. Similarly, in 2002, the discussion on Budget (General) took place in the Rajya Sabha and Lok Sabha, respectively on 18 and 19 March 2002.<sup>21</sup>

### **Discussion on working of Ministries**

Prior to the introduction of the Department-related Committees, after the general discussion on the Budget, the Rajya Sabha used to adjourn for about three weeks during which the Lok Sabha would be voting on demands for grants and thereafter meet again for completion of the remaining stages of the financial business, namely, consideration and passing of Appropriation and Finance Bills. In the first week of re-assembly of the House, it used to discuss the working of three or four Ministries. The background to the introduction of this procedure was as follows:

At a meeting of the Business Advisory Committee held on 20 March 1970, the Minister of Parliamentary Affairs informed the Committee that in deference to the wishes of the leaders of different opposition groups and some other members of the Rajya Sabha, the Government was agreeable to convene the next session of the Rajya Sabha a week in advance, *i.e.*, from 27 April 1970, in order to enable the House to discuss the reports on the working of some of the Ministries. The Committee decided that out of the five Ministries selected, working of the four Ministries should not be discussed during that week.<sup>22</sup>

On 24 April 1970, it was decided in the meeting of the Business Advisory Committee that the discussion would be assimilated to rule 176 (short duration discussion) *minus* the time-limit. An item in the list of business should be ‘Discussion on the working of the Ministry of...’. Further, four hours – from 2.00 p.m. to 6.00 p.m. – should be allotted for the purpose. The debate of one day should not be carried over to the next day.<sup>23</sup>

At the meeting of the Business Advisory Committee on 16 June 1971, it was decided that *inter se* priority of members who gave notices to initiate discussion on a Ministry should be determined by ballot (As a result names of all members from whom notices were received were listed in the list of business under the relevant item).<sup>24</sup>

On 2 April 1985, the Business Advisory Committee recommended that the discussion on the working of each Ministry might continue for the whole day and the Minister concerned should reply on the next day.<sup>25</sup>

The above procedure was reconsidered by the Business Advisory Committee. It recommended that the practice of listing all the names of members who desired to raise the discussion on the working of a particular Ministry should be discontinued and only the name of the member who was to initiate the discussion should be included in the list of business and that such a name might be decided by consensus amongst the leaders of various parties/groups.<sup>26</sup>

Thus, a new procedural device was evolved in the midst of the financial business in the Rajya Sabha which has firmly been established over almost three decades. The current practice, which has not changed even after the introduction of the Department-related Committee system, is that the Business Advisory Committee selects three or four Ministries/subjects for discussion in the first week of the re-assembley of the House after the budgetary recess contemplated under the new system. The names of the members who are to initiate discussion on the working of the Ministries are decided by the parties/groups by mutual consultation. Only a general item regarding discussion on the working of a Ministry figures in the list of business. At the appointed time the member whose name is received by the Chair in advance from the leader/whip of the concerned party/group is called on to initiate the discussion and then it proceeds like a short duration discussion. The Minister concerned replies at the end and the discussion concludes.

### **Appropriation and Finance Bills**

No money can be withdrawn from the Consolidated Fund of India except under appropriation made by law.<sup>27</sup> After the Lok Sabha has made grants, a Bill is introduced there to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet the grants made by that House and the expenditure charged on the Consolidated Fund of India. Appropriation Bills may pertain to vote on account, supplementary demands for grants or excess grants. Since they are Money Bills within the definition of article 110 of the Constitution, the Rajya Sabha has to return them within a period of fourteen days from the date of their receipt.

The Constitution provides for vote on account, *i.e.*, for grants in advance to be made by Parliament pending the passing of General Appropriation Bill.<sup>28</sup>

Dr. Ambedkar who introduced the provision regarding vote on account in the Constitution, stated that full discussion should be held in Parliament on the financial statement and on the Government's taxation proposals and proposals for expenditure. Since these discussions might not be completed before the beginning of a financial year, this provision was made to enable Parliament to vote a lumpsum grant under each demand sufficient for the Government to incur expenditure for a short period until the taxation and expenditure proposals were discussed in full and an Appropriation Act was passed.<sup>29</sup>

Normally, vote on account is taken for two months only. But during an election year or when it is anticipated that the main demands and the Appropriation Bill may take longer than two months to be passed by Parliament, the vote on account may be for a period exceeding two months and may extend to three or four months as has happened in 1996, 2004, 2009 and 2014 due to elections.<sup>30</sup>

As per the practice, whenever any amount is drawn from the Contingency Fund of India for a new service, the Minister concerned makes a statement in both Houses.

The Minister of State in the Ministry of External Affairs made a statement regarding an advance of rupees 1.80 crores to be drawn out of the Contingency Fund of India to meet 'Charged Expenditure'.<sup>31</sup>

The Minister of State in the Ministry of Petroleum & Natural Gas and the Minister of State in the Ministry of Finance made a statement regarding withdrawal of advance from the Contingency Fund of India for meeting the requirement of funds for the Commission of Inquiry to inquire into circumstances leading to arrangements entered into with Fairfax Group of USA.<sup>32</sup>

The Minister of State in the Ministry of Home Affairs made a statement regarding withdrawal of money from the Contingency Fund of India for depositing in Delhi High Court in compliance with its order in a case.<sup>33</sup>

If the amount authorised by any Appropriation Act to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need had arisen during the current financial year, for supplementary or additional expenditure upon some new service not contemplated in the financial statement of that year, another statement showing the estimated amount of that year is laid before both Houses of Parliament.<sup>34</sup>

The Rajya Sabha gets an opportunity to consider supplementary or additional grants when the related Appropriation Bill comes before it after it is passed by the Lok Sabha.

If any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, a demand for such excess is presented to the Lok Sabha only.<sup>35</sup> A demand for excess grant is made after the expenditure has been incurred and it cannot be described as “estimated” amount of expenditure. Hence such a statement is not required to be laid on the Table of the Rajya Sabha. The Rajya Sabha gets an opportunity of discussing the excess grant when the concerned Appropriation Bill is transmitted to it after it is passed by the Lok Sabha.

In the case of a Finance Bill, the Rajya Sabha can also make recommendations for amendment, as has already been explained in the Chapter on Legislation. The financial business culminates in the return by the Rajya Sabha of the Appropriation and the Finance Bills.

Parliament may, for the purpose of timely completion of financial business, regulate by law the procedure of, and the conduct of business, in each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India.<sup>36</sup> No such legislation has so far been enacted.

On an occasion, the Appropriation (Vote on Account) Bill was considered and returned before completion of the general discussion on the Budget. It was, however, agreed in the House that this should not be taken as a precedent.<sup>37</sup>

On 11 March 1991, the Rajya Sabha cleared as many as seventeen Bills relating to the Railway and General Budgets, Budgets of four States and a Union territory and the Finance Bill, in a couple of hours.<sup>38</sup>

#### NOTES AND REFERENCES

1. Art. 112 and R. 181.
2. R. 181(1).
3. For sittings of the Rajya Sabha on Budget days, see Chapter-11.
4. Bn. (I), 28.2.1996.
5. R.S. Deb., 18.2.1953, c. 615.
6. See for instance, Bn. (II), 28.2.1995.
7. Art. 112(2) & (3).
8. Art. 113(1).
9. Art. 113(2).
10. See for instance, Bn. (II), 10.4.1995.
11. R.S. Deb., 2.3.1970, c. 175-87.

12. R.S. Deb., 12.3.1970, c. 106-07.
13. F. No. 35/3/84-L.
14. R. 181(2).
15. R. 182(1).
16. R. 182(3).
17. R. 2.
18. R. 182(2).
19. R. 184.
20. *Ibid.*, Expln.
21. See also Chapter 5.
22. BAC mts., 25.3.1970.
23. *Ibid.*, 24.4.1970.
24. *Ibid.* 16.6.1971.
25. *Ibid.*, 2.4.1985.
26. *Ibid.*, 20.4.1987.
27. Art. 114.
28. Art. 116.
29. Shiva Rao, B., *The Framing of India's Constitution-A Study*, pp. 441-42.
30. Finance Minister's speech (Feb. 1996), para. 32 and (Feb. 2004), para-1.
31. Bn. (I), 9.5.1988.
32. *Ibid.*, 28.4.1987.
33. R.S. Deb., 4.4.1989, c. 6.
34. Art. 115(1)(a).
35. Art. 115(1)(b).
36. Art. 119.
37. R.S. Deb., 30.7.1991, c. 399-400.
38. Bn. (I), 11.3.1991.

## CHAPTER–25

### Committees

#### I. Committee structure in general

**P**arliamentary Committees of the Rajya Sabha may be divided into two broad categories: (a) the Standing Committees and (b) the *ad hoc* Committees

##### (a) Standing Committees

The Standing Committees are those which are elected by the House or nominated by the Chairman every year or from time to time and are permanent in nature. There are twelve Standing Committees and in terms of their functions they may be categorised as follows:

##### *COMMITTEES TO ENQUIRE—*

- (a) Committee on Petitions
- (b) Committee of Privileges
- (c) Committee on Ethics

##### *COMMITTEES TO SCRUTINISE AND CONTROL—*

- (a) Committee on Government Assurances
- (b) Committee on Subordinate Legislation
- (c) Committee on Papers Laid on the Table

##### *COMMITTEES TO ADVISE—*

- (a) Business Advisory Committee
- (b) Committee on Rules

##### *HOUSE KEEPING COMMITTEES—*

- (a) House Committee
- (b) General Purposes Committee
- (c) Committee on Provision of Computer Equipment to Members of Rajya Sabha
- (d) Committee on Member of Parliament Local Area Development Scheme (MPLADS)

The functioning of all Standing Committees except the Committee on Provision of Computer Equipment to Members of Rajya Sabha and the Committee on MPLADS are governed by the Rules of Procedure and Conduct of Business in the Council of States.

*Department-related Committees*

Out of the twenty-four Department-related Parliamentary Standing Committees of both the Houses, the following eight Committees function under the direction and control of the Chairman, Rajya Sabha:

- (a) Committee on Commerce
- (b) Committee on Home Affairs
- (c) Committee on Human Resource Development
- (d) Committee on Industry
- (e) Committee on Science and Technology, Environment and Forests
- (f) Committee on Transport, Tourism and Culture
- (g) Committee on Health and Family Welfare
- (h) Committee on Personnel, Public Grievances, Law and Justice

The other sixteen Committees function under the direction and control of the Speaker, Lok Sabha.

**(b) *Ad hoc Committees***

The *ad hoc* Committees are those which are constituted by the House or by the Chairman or by the Presiding Officers of both the Houses jointly to consider and report on specific matters and become *functus officio* as soon as they complete their work. Such Committees may be divided into two categories—

(i) The Select/Joint Committees on Bills. The Select/Joint Committees on Bills are constituted by the House(s) on specific motion moved by the Minister in-charge of the Bill or any member and adopted by the House to consider and report on Bills as referred to them from time to time. These Committees are distinguished from other *ad hoc* Committees, inasmuch as they are concerned with Bills and the procedure to be followed by them is laid down in the Rules of Procedure. They function under the directions and control of the Chairman.

Some instances of such Select/Joint Committees on Bills are Committee on the Lokpal and Lokayuktas Bill, 2011, Select Committee on the Insurance Laws (Amendment) Bill, 2008, Select Committee on the Repealing and

Amending Bill, 2014, Select Committee on the Payment and Settlement Systems (Amendment) Bill, 2014, Select Committee on the Mines and Minerals (Development and Regulation) Amendment Bill, 2015, Select Committee on the Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014, Select Committee on the Real Estate (Regulation and Development) Bill, 2013, Select Committee on the Coal Mines (Special Provisions) Bill, 2015, and Joint Committee on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Bill, 2015.

(ii) Committees which are constituted from time to time either by the House on motions moved and adopted or by the Chairman to enquire into and report on specific subjects. Examples of such Committees constituted in the Rajya Sabha are: the Committee constituted in 1962, to frame Draft Rules of Procedure for the Rajya Sabha under article 118(2) of the Constitution; the Committee appointed in 1976 to enquire into the conduct of a sitting member of the Rajya Sabha; the Committee of members of both the Houses constituted in 1983 to bring about reconciliation between Nirankaris and Akalis; the Joint Parliamentary Committees appointed in 1988 and 1992 to probe into the Bofors Gun Deal and Bank Securities Scam, respectively; the Committee constituted in 1995 by the Chairman on the demand made by the members in the House during Question Hour, to examine all aspects relating to procurement of railway wagons; the Committees constituted by the Chairman in 1996 each on the problems of cotton growers and functioning of Wakf Boards. Three other Committees constituted by the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha in consultation with each other in 1993 for the purpose of advising on statues and portraits in the Parliament House, catering services, and facilities for members also come under the category of *ad hoc* Committees. Similarly, the Joint Parliamentary Committee on Maintenance of Heritage Character and Development of Parliament House Complex constituted on 15 December 2009 comes under this category.

I. *Financial and other Committees on which Rajya Sabha is represented*

Members of the Rajya Sabha are represented or associated with the following four Committees provided for in the Rules of Procedure and Conduct of Business in the Lok Sabha:

- (a) Committee on Public Accounts (PAC)
- (b) Committee on Public Undertakings (COPU)
- (c) Committee on the Welfare of Scheduled Castes and Scheduled Tribes
- (d) Committee on Empowerment of Women

**II. Committee mentioned in the Appendix to Lok Sabha Rules**

The Chairman nominates three members to serve on the Library Committee which is set up by the Speaker and finds a mention in the Appendix-II to the Lok Sabha Rules.

**III. Committees set up by motions**

Besides these, there are other Committees on which the Rajya Sabha is represented. They are set up by adoption of motions in both the Houses.

- (a) Parliamentary Committee to review the rate of dividend payable by the Railway Undertaking to the General Revenues (Railway Convention Committee)
- (b) Joint Committee on Offices of Profit
- (c) Committee on Welfare of Other Backward Classes (OBCs)

**IV. Statutory Committee**

A statutory Committee is set up by an Act of Parliament. For instance, the Joint Committee on Salaries and Allowances of Members constituted under the Salary, Allowances and Pension of Members of Parliament Act, 1954 in which members of both Houses are represented.

**V. Consultative Committees**

Members of both Houses of Parliament are nominated by the Minister of Parliamentary Affairs to serve on the Consultative Committees attached to various Ministries.

**VI. Government Committees**

There are a number of Committees, Councils, Boards, etc. which are constituted by the Government either in pursuance of statutes or by the Government resolutions, on which members are represented.

**How Committees are generally constituted in Rajya Sabha**

Standing Committees mentioned above are generally reconstituted every year before the conclusion of the Budget session. If, however, in any year biennial elections to the Rajya Sabha are to take place, the process of the reconstitution of Committees may be deferred to enable allocation of seats on various Committees to different parties/groups on the basis of their numerical strength after such elections. For instance, in the year 1986, the Committees were reconstituted at the end of October 1986,<sup>1</sup> due to biennial elections to the Rajya Sabha in June, July and August that year. In 1987, however, the Committees were reconstituted in May that year as

per the practice.<sup>2</sup> Again in 1992, the Committees were reconstituted in mid-November,<sup>3</sup> while the process of reconstitution of Committees in 1993, though commenced in May, could be completed only in July that year.<sup>4</sup> In 1994, the Committees were reconstituted in June<sup>5</sup> and in 1995 and 1996 they were constituted in August and July, respectively.<sup>6</sup> However, as per current practice the Standing (House) Committees of Rajya Sabha and the Department-related Parliamentary standing Committees are constituted afresh, normally once in two years and this exercise is usually linked to the biennial elections to the Rajya Sabha.

For the purpose of committee reconstitution, as per the convention and practice, an informal meeting of leaders of the various parties/groups in the Rajya Sabha having a numerical strength of five or more members is held by the Leader of the House/Minister of Parliamentary Affairs in order to decide on the quota for each party/group on various Standing Committees. They make allocation to different Committees in terms of the strength of each party/group. The Secretariat prepares and furnishes informally statements indicating the seats available, current representation of various parties, etc. in respect of the two Financial Committees (PAC and CoPU) and the Committee on the Welfare of Scheduled Castes and Scheduled Tribes as well as Committee on Welfare of Other Backward Classes on which the Rajya Sabha is represented and Standing Committees of the Rajya Sabha. The quota is then worked out by dividing the effective strength of the Rajya Sabha by the number of seats available. For working out this quota, the effective representation of the Rajya Sabha in the Committees/total composition of the Committees is taken into account and the Committees are grouped as follows: (1) two Financial Committees and the Committee on the Welfare of Scheduled Castes and Scheduled Tribes and the Committee on Welfare of Other Backward Classes:  $7 + 7 + 10 + 10 = 34$ ; (2) Business Advisory Committee, Committee of Privileges and Committee on Rules:  $9 + 10 + 14 = 33$ ; (3) House Committee, Committee on Petitions, Committee on Government Assurances, Committee on Subordinate Legislation and Committee on Papers Laid on the Table:  $10 + 10 + 10 + 15 + 10 = 55$ . Assuming that there are 34 seats available in the first group and the effective strength of the Rajya Sabha is, say, 232 (*i.e.*, 245, less number of vacancies—13), the quota to be worked out for this group would, therefore, be  $232/34 = 6.82$ , say 7, *i.e.*, one seat for every 7 members.

After the parties/groups mutually agree, the leaders are requested to submit names of the members for consideration of the Chairman, by a specific date. In suggesting names, leaders generally keep in mind that as far as possible a member does not serve on a Committee for more than two consecutive terms. So far as seats available to smaller groups, independents and unattached members are concerned, the Chairman nominates members

from amongst them. After all the names have been received, the Chairman approves nomination of members to various Committees. The names of members so nominated are notified in the Parliamentary Bulletin Part-II. They are also formally informed individually.<sup>7</sup>

So far as the Committees in the first group mentioned above are concerned, the seats are required to be filled by election in accordance with the system of proportional representation by means of the single transferable vote after the motions in respect thereof are adopted by the House. However, by taking recourse to the procedures of informal consultation and working out of quota, unanimity is generally brought about and the election does not become necessary.

As regards the Chairmanship of the Committee, the Chairman, Rajya Sabha is also the Chairman of the Business Advisory Committee,<sup>8</sup> General Purposes Committee and Committee on Rules.<sup>9</sup> The Deputy Chairman is the Chairman of the Committee of Privileges. In the case of other Standing Committees, namely, the Committee on Petitions, the Committee on Government Assurances, the Committee on Subordinate Legislation, the Committee on Papers Laid on the Table and the House Committee, the Chairmanship is shared between the ruling and the opposition parties in proportion to their numerical strength in the House. The Chairman, Rajya Sabha appoints Chairmen of Committees in consultation with the leaders of parties/groups concerned.

The present Chapter describes the composition, functions, of the various categories of Committees mentioned above under the following heads: Individual Committees, Select/Joint Committees on Bills, Department-related Committees, Financial and other Committees on which the Rajya Sabha is represented, Statutory Committees, *ad hoc* Committees, Government Committees and Consultative Committees.

## II. Individual Committees

### **Business Advisory Committee**

#### *Constitution*

The Chairman nominates from time to time the Business Advisory Committee consisting of eleven members including the Deputy Chairman.<sup>10</sup> The Chairman, Rajya Sabha, is the Chairman of the Committee.<sup>11</sup> The Committee so nominated holds office until a new Committee is nominated.<sup>12</sup> If the Chairman is for any reason unable to preside over any meeting of the Committee, the Deputy Chairman acts as the Chairman for that meeting.<sup>13</sup> If both the Chairman and the Deputy Chairman are unable to preside over any meeting, the Committee chooses any other member to act as the

Chairman for that meeting.<sup>14</sup> Casual vacancies in the Committee are filled by nomination by the Chairman.<sup>15</sup> The quorum of the Committee is five.<sup>16</sup>

In view of the limited membership of the Committee and a number of parties/groups in the House, it is not possible for the Chairman to nominate members from each and every group. In order to make the Committee as broad-based as possible so that its recommendations could be acceptable to all sections of the House, leaders of groups having a strength of four or more which do not find representation on the Committee are invited to attend its sittings as special invitees. Similarly, members of the panel of Vice-Chairmen, if not already members of the Committee, are also invited to attend as special invitees. The members so invited take part in the deliberations of the Committee without the right to vote and they are also not counted for the purpose of quorum of the Committee. The Leader of the House, Leader of the Opposition and Minister(s) in-charge of Parliamentary Affairs in the Rajya Sabha are also invited as a special invitees.

#### *Meetings*

Meetings of the Business Advisory Committee are generally held in the Chairman's Room on the opening day of every session and also every Thursday (mostly at 4.00 p.m.), when the House is in session. The day, time and venue of the meetings may be changed and fixed as per the convenience of the Chairman.

#### *Functions*

The Committee recommends time that should be allocated for various stages of Government Bills<sup>17</sup> and other business as well as for various stages of Private Members' Bills and resolutions.<sup>18</sup> The Committee performs such other functions as may be assigned to it by the Chairman from time to time.<sup>19</sup> The Committee also recommends time for discussion of other items of business such as the Motion of Thanks on the President's Address,<sup>20</sup> though the power to allot time for such items is vested in the Chairman who exercises this power in consultation with the Leader of the House.<sup>21</sup> The Committee also allocates time for discussion of 'no-day-yet-named motions'<sup>22</sup> and 'short duration discussions', the notice of which is given by members and admitted by the Chairman. Besides, all proposals for late sittings of the House (in exceptional cases dispensing with Question Hour)<sup>23</sup> or dispensing with or curtailment of lunch hour, and fixing of additional sittings/<sup>24</sup> cancellation of sittings<sup>25</sup> or fixation of a sitting on a Saturday<sup>26</sup> are also generally placed before the Committee for its consideration.

The Committee at its meeting held on 10 May 2012 decided that the House will sit from 11.00 a.m. to 4.30 p.m. on Sunday, the 13 May 2012 for its Special Sitting to commemorate the 60<sup>th</sup> Anniversary of the first sitting of Parliament.<sup>27</sup>

The priority in respect of Government business is determined by the Government. The Committee has, however, in certain cases, recommended priority to individual items of business or suggested the hour and date on which an item of business be taken up in the House or recommended postponement of certain items of business, if sufficient time was not available during the session for discussion of that item of business placed before the Committee.

The Committee has, at times, *suo motu* recommended to the Government to find time for particular subjects for discussion in the House<sup>28</sup> and also recommended allocation of date or time for such discussions.<sup>29</sup>

On an occasion the Committee recommended the Deputy Chairman to consider admitting half-an-hour discussion on points arising out of answers given to certain questions.<sup>30</sup>

The Committee at its meeting held on 11 November 2010 allotted four hours, for the discussion of the motion under article 217 read with article 124(4) of the Constitution for removal from office of Mr. Justice Soumitra Sen of Calcutta High Court.<sup>31</sup>

At times, the Committee may recommend that any item of business may be disposed of by the House without discussion<sup>32</sup> or that when the subject-matter of two or more items of business so warrants, those items may be discussed together in the House<sup>33</sup> or that a particular Bill may be introduced on a day and referred to a Committee or all the stages of the Bill may be gone through in one sitting.

The Committee recommended that the Criminal Law Amendment Bill, 1995, be introduced in the House on 18 May 1995, and be referred to the Department-related Parliamentary Standing Committee on Home Affairs; that Committee might submit its report within two days and the Bill be taken up for consideration and passing on 22 May 1995.<sup>34</sup>

The Committee recommended that the Sixth Schedule to the Constitution (Amendment) Bill, 1995, in its application to the State of Assam be taken up for consideration and passing, immediately after its introduction on 17 August 1995.<sup>35</sup>

The Committee recommended that the National Commission for Heritage Sites Bill, 2009 may be referred to the concerned Department-related Parliamentary Standing Committee after its constitution and that the Committee should examine and report within a reasonable time-frame.<sup>36</sup>

The Committee recommended that the Nalanda University Bill, 2010 may be taken up for consideration and passage during the 220<sup>th</sup> Session itself without referring it to the concerned Department-related Parliamentary Standing Committee.<sup>37</sup>

The Committee may also re-examine the allocation of time already recommended in respect of a Bill or any other item of business and reschedule the same with reference to its date and time.<sup>38</sup>

As per convention, the Committee recommends the names of Ministries whose working should be discussed by the House during the Budget session and also fixes the order in which they may be taken up for discussion.<sup>39</sup>

Since the Committee has been specifically empowered to allocate time for disposal of Private Members' Bills<sup>40</sup> and resolutions,<sup>41</sup> it may also recommend that the House may dispense with the private members' business listed for a Friday in order to complete the urgent Government legislative and other business and allot time for private members' business on any other day<sup>42</sup> in the same or subsequent week<sup>43</sup> or even in the next session.<sup>44</sup> The Committee may also recommend shifting of time for private members' business on a Friday to another time and day.<sup>45</sup>

There had been occasions in early years when the Committee had recommended that the days allotted for private members' business be converted into Government business days, or other days be allotted *in lieu* of Fridays.<sup>46</sup>

On an occasion, the Committee had recommended that (1) the lunch recess should be curtailed by half-an-hour; (2) the House should sit every day till 6 p.m.; (3) Friday allocated for private members' business should be allocated for Government business; and (4) the House should sit on Saturday for the transaction of Government business. A member contended that the recommendation of the Committee regarding conversion of private members' day into Government business day was *ultra vires* of the rules as far as the Committee's function to allocate time was concerned and amounted to negativing the list of business circulated earlier. The Chairman stated that with a view to completing urgent Government business during the remaining part of the session, Government had represented to him that the particular day should be allotted for Government business. He placed the request before the Business Advisory Committee to ascertain its views. The consensus at the meeting was that the Government's request should be agreed to. The matter, however, ended after the Leader of the House assured that Government would consider finding time for private members' business.<sup>47</sup>

On occasions, the Committee has considered certain procedural or special matters also.

On 17 March 1986, the Committee recommended that the good wishes to the members retiring in 1986 should be offered on 18 March 1986.<sup>48</sup> On 14 March 1995, the Committee recommended that henceforth 3 April of every year, be observed as the 'Rajya Sabha Day' in a

befitting manner.<sup>49</sup> On 26 February 1996, the Committee, recommended that an obituary reference to the passing away of Shri N.T. Rama Rao, former Chief Minister of Andhra Pradesh, be made in the House on 27 February 1996.<sup>50</sup> The Committee laid down the procedure for discussion in the Rajya Sabha on the working of the Ministries of the Government of India which was introduced in the Budget session in 1970.<sup>51</sup> The Committee prescribed the time at which ordinarily the Ministers should make statements in the House,<sup>52</sup> order in which notices for clarifications received from members should be arranged<sup>53</sup> and the procedure for seeking clarifications on Ministers' statements.<sup>54</sup>

On an occasion, the Committee recommended that one calling attention or short duration discussion might be discussed every week during the session.<sup>55</sup>

The Committee has also from time to time considered procedures regarding clarifications on calling attention,<sup>56</sup> notices of special mention,<sup>57</sup> zero hour submissions<sup>58</sup> and regulation of Question Hour.<sup>59</sup>

The Committee recommended that a special sitting be held to commemorate the 50<sup>th</sup> anniversary of the Quit India Movement.<sup>60</sup> The Committee recommended a date for felicitations to be offered to Shri Bhupesh Gupta, a member who had completed twenty-five years of uninterrupted service in the House.<sup>61</sup>

The Committee discussed the matter of telecasting the proceedings of the House and unanimously recommended that the proceedings of the Rajya Sabha should be telecast simultaneously with those of the Lok Sabha.<sup>62</sup> The Committee also gave approval to the proposal of AIR to record Question Hour proceedings of the House when Doordarshan covered the proceedings of the other House so that the Question Hour proceedings of both the Houses could be available to the audience through either of the media.<sup>63</sup> On another occasion, the Committee recommended that a Joint General Purposes Committee be constituted for taking decisions on matter of common concern to both Houses, such as the telecasting of proceedings of the Houses.<sup>64</sup> The Committee recommended that the proceedings of the Rajya Sabha when zero hour and special mention matters were raised need not be telecast live for the time being.<sup>65</sup>

On an occasion, the Committee considered a suggestion regarding calling the Attorney-General to the House to give his opinion on the order of the Election Commission staying elections in the country. The Committee was of the view that there was no need to call him.<sup>66</sup>

The Committee recommended that at least four hours should be utilised daily for the transaction of the Government legislative business.<sup>67</sup>

On an occasion, the Committee considered draft resolution to be moved by the Chairman to commemorate the 50<sup>th</sup> Anniversary of the United

Nations and suggested that it should be modified in respect of restructuring of the Security Council.<sup>68</sup>

On another occasion, the Committee recommended that the Government may bring a resolution on the terrorist attack in Mumbai on 26 November 2008 on the occasion of its First Anniversary and that the resolution may be adopted unanimously after leaders of all political parties spoke on the occasion.<sup>69</sup>

#### *Functioning of the Committee*

Before the commencement of each session, a programme of Government legislative and other business is received from the Ministry of Parliamentary Affairs and placed before the Committee, for allocation of time. The same is circulated amongst the members of the Committee.

In the initial years, the Committee used to meet as and when requested for the allocation of time for Government legislative and other business. As per the present practice, ordinarily, the Committee meets on the first day of the session itself and then on Thursday every week during the session.

The Committee's weekly meetings started since November 1977. On 12 March 1981 it was suggested that the meetings should be held every Wednesday.<sup>70</sup> On 25 March 1985, it was decided that (i) meetings of the Committee be held every Thursday when the House was in session; and (ii) on the opening day of every session.<sup>71</sup>

The decisions of the Committee are incorporated in the minutes of the Committee which are circulated to members of the Committee as also the special invitees and other members who were present at the meeting of the Committee.

While considering the allocation of time to various items of business, the Committee takes into account such factors as (i) the volume and significance of a Bill; (ii) the general desire and interest of members in a subject; (iii) the time taken for similar matters in the past or in the other House; (iv) the need and urgency of a measure to be disposed or discussed expeditiously or otherwise and (v) the total time available at the disposal of the House.

At a meeting of the Business Advisory Committee held on 23 July 2009, the Chairman suggested allocation of the speaking time of individual members as also its regulation during the debates in the House. The Chairman pointed out that it is difficult for a Presiding Officer to regulate the time-limit for a member's speech as full list of intending participants is not available at the commencement of a debate. After some discussion, the Committee agreed with the suggestion of the Chairman that members who wish to speak in a debate should give their names to the Table Office not later than 30 minutes prior to the commencement of a debate.

At a meeting of the Business Advisory Committee held on 16 July 2009, the Chairman suggested that only those matters which arise during the period after the conclusion of the previous day's sitting might be permitted to be raised during the Zero Hour. After some discussion, the Committee agreed with the suggestion of the Chairman, which was based on the recommendations of the Committee of Presiding Officers, the report of which was presented at the Conference of Presiding Officers of Legislative Bodies in India held in Kolkata on 10 October 2004.

At a meeting of the Business Advisory Committee held on 22 April 2010, the Chairman suggested that the Government may consider bringing out a parliamentary calendar indicating the date of commencement and adjournment of the House during the year, i.e., fixing the period of various sessions of Rajya Sabha, for advance intimation of members and ministers.

At a meeting of the Business Advisory Committee held on 7 March 2013, the Chairman observed that large number of names of members are added in the speakers' list after the commencement of discussion leading to problem in time management. He suggested that leaders of respective parties should ensure that members who wish to participate in a debate should give their names 30 minutes prior to the commencement of a debate and it should be strictly adhered to.

*Report of the Committee regarding allocation of time*

(a) Provision in the rules

The allocation of time in regard to a Bill or other business as recommended by the Committee is required to be reported by the Chairman, or in his absence, by the Deputy Chairman to the House and notified in the Bulletin.<sup>72</sup> As soon as may be, after the report has been made, a motion may be moved by the Deputy Chairman or in his absence by any other member of the Committee designated by the Chairman "that this House agrees with the allocation of time proposed by the Committee in regard to such and such Bill or Bills, or other business, as the case may be", and if such a motion is accepted by the House, it takes effect as if it were an order of the House. To such a motion, an amendment may also be moved that the report be referred back to the Committee either without limitation or with reference to any particular matter. Not more than half-an-hour may be allotted for the discussion of such a motion and no member can speak for more than five minutes thereon.<sup>73</sup>

At the appointed hour, in accordance with the Allocation of Time Order, for the completion of a particular stage of a Bill or other business, the Chairman has the power to forthwith put every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill or other business.<sup>74</sup>

No variation in the Allocation of Time Order can be made except by the Chairman, who may make such variation, if he is satisfied after taking the sense of the House that there is a general agreement for such variation.<sup>75</sup>

(b) Established procedure and practice

The above procedure, however, is not followed in actual practice almost since inception. As per the well-established practice, the recommendations of the Committee are reported to the House by the Chair in the form of an announcement generally on the same day on which the sitting of the Committee is held (or the next day). The announcement is notified in the Parliamentary Bulletin Part-II of that day. The announcement is treated as final and no formal motion in respect thereof is moved.

At its very first meeting held on 5 August 1952, the Committee, *inter alia*, allotted time for certain Bills and a private member's resolution. The Committee agreed that while the Chairman might generally adopt the programme settled by the Committee, no formal report to the House as contemplated in the then rule 28E (corresponding to the present rule 34) or Allocation of Time Order was necessary. However, in regard to the Preventive Detention (Second Amendment) Bill, 1952, the Committee had proposed a detailed time-table for the various stages of its discussion. The Chairman designated a member of the Committee to move the motion in respect of the Allocation of Time Order for that Bill.<sup>76</sup> The Chairman announced in the House the Time-table as advised by the Committee and stated at the end "I hope hon'ble members will find this arrangement to be quite satisfactory."<sup>77</sup> No formal motion was moved.

However, on 14 April 1955, after the Allocation of Time was announced by the Chairman, the Deputy Chairman moved a motion: "That this House agrees with the allocation of time proposed by the Business Advisory Committee in regard to Government business as announced by the Chairman today." The motion was adopted.<sup>78</sup>

At its ninth meeting held on 23 August 1955, the Committee recommended that no motion regarding the allocation of time as proposed by the Committee need be moved in the House. The allocation of time would, however, be announced by the Chairman in the usual manner to the House and a Bulletin would also be issued.<sup>79</sup>

(c) Objection to the practice

On a number of occasions, points have been raised regarding the practice of the House and the provisions of the rules in respect of allocation of time by the Committee.

On 29 August 1966, points were raised as to whether the rule was being followed, (regarding motion agreeing with the Committee's

recommendations) in the context of the announcement of the Deputy Chairman that the Business Advisory Committee had allotted an hour for consideration and passing of the Appropriation (No. 3) Bill, 1966. A member suggested that the desire of the House should be ascertained by a formal motion whether the House wished to conform to the existing practice or the existing practice should be modified and brought in accordance with the rule. The Deputy Chairman observed:

...There is a rule which is not in practice. There is such a thing as the letter of the law and there is such a thing as a convention or practice that we have established for so many years. We have not followed a set rule that we should bring a motion. We have followed the other practice of announcing...because we have found it satisfactory to all sections of the House and the Chair is also able to use his own discretion. If a formal motion is moved and adopted, then it will become very rigid and if it is laid down that the time is one hour, then it will be one hour and no more. The Chairman may not use his discretion. The Chairman cannot use his discretion on such occasions if it is in the form of a formal motion. Therefore, I leave it to the sense of the House whether hon'ble members want the rigid thing, whether the Chairman will stick to the minute and observe the time and strictly observe the letter of the law or whether you want the present practice to continue which has been working in a very satisfactory manner. I am in the hands of the House. If the House wants to decide that we should have a formal motion then this matter can go to the Chairman to be put right.

The Leader of the House (Shri M.C. Chagla) agreeing with the observations of the Deputy Chairman added:

If we bring in a formal resolution before the House then there will be long and acrimonious discussions and there will be more rigidity in the working out of the programme. Therefore, I would beg of the House to let this present practice continue. I do agree...that...after formal announcement is made of what the Business Advisory Committee had decided, it is open to the Chairman to extend and adjust the time in order to see that there is sufficient time for a particular item. When the Chair finds that the time is not sufficient, I am sure it will exercise its discretion and extend the time. Therefore, I would appeal to the House not to interfere with or disturb the present practice.<sup>80</sup>

On 8 March 1966, the matter again cropped up in the context of the Committee's recommendation of converting private members' day into Government business day. A member contended that the announcement made in the House did not conform to the requirements of rule 35, inasmuch as no motion was moved and the recommendation normally

had to be endorsed by the House, all the more so when the business was fundamentally altered, that is, private members' day into a Government business day.<sup>81</sup>

On 25 November 1966, when the Chair announced about allocation of time for Government and other business as recommended by the Business Advisory Committee, a point was raised for dropping a Bill. The Deputy Chairman ruled that it could not be done; it was for the House to decide whether the existing convention should be followed or a formal motion contemplated in the rule should be moved.<sup>82</sup>

On similar points being raised after the announcement, the Chairman put it to the House for ascertaining the consensus whether the Committee's recommendations were accepted.<sup>83</sup>

When a member raised a point of order (after the announcement of the Business Advisory Committee's recommendations) that there should be a proper motion, the Deputy Chairman observed:

It is for the convenience of the members and of the House that this procedure was adopted...because when we adopt a motion fixing two hours for discussion of a certain thing, two hours will mean two hours only...sometimes we take three hours or four hours at the discretion of the Chair and of the House. So, it is only to facilitate a proper discussion of things that this procedure was adopted.<sup>84</sup>

The matter that the recommendation of the Business Advisory Committee should be approved was raised again on 8 December 1978. The Vice-Chairman ruled that as per the practice, there was no motion and no amendment was allowed and only the Chair informed about the recommendations of the Committee.<sup>85</sup>

Once at a meeting of the Business Advisory Committee, the Secretary-General apprised the Committee of the various points being raised by members in the House in regard to the practice of announcing the recommendations of the Business Advisory Committee and sought the Committee's guidance. After some discussion, the consensus was that the existing practice should continue.<sup>86</sup>

#### (d) Views of the Committee on Rules

The Committee on Rules considered a suggestion that the procedure prescribed in rule 35 should be followed (*i.e.*, adoption of a motion of the allocation of time). The Committee was of the view that the practice of announcing the recommendations of the Business Advisory Committee in the House was working satisfactorily and should be continued. The Committee was also of the view that the Chairman might, in appropriate cases, designate a member of the Business Advisory Committee to move a motion as contemplated by rule 35.<sup>87</sup>

*No announcement of allocation of time*

On occasions, the Committee may recommend that no announcement regarding allocation of time made by it to Government or other business be made.

At a meeting of the Committee held on 23 August 1966, the Committee allocated time for certain items of Government and private members' business. It also allocated time for additional items but decided that announcement regarding allocation of time for the additional items would not be made for the time being.<sup>88</sup>

At a meeting of the Committee held on 15 December 1978, the matter regarding providing time for discussion of a no-day-yet-named motion regarding allegations against family members of the then Prime Minister and the then Home Minister was discussed. Since no allocation of time was made at the meeting for any Government legislative and other business, the Committee was of the opinion that no formal announcement in this respect be made in the House.<sup>89</sup>

At a meeting of the Committee held on 18 August 2011 and 2 May 2013, no time was allocated for items of Government business. Hence, no announcement in this respect was made in the House.

*Nature of Committee's recommendations*

The recommendations of the Business Advisory Committee are only *recommendatory* and any subject recommended for discussion by the Committee is subject to other rules applicable in the case.

On 6 May 1958, the Deputy Chairman announced the recommendations of the Business Advisory Committee. One of the items recommended for discussion was flood situation. When the matter did not figure in the list of business for three to four days, a member raised a point about its disappearance (with reference to the then rule 28H somewhat corresponding to the present rule 37). The Deputy Chairman ruled:

The recommendations of the Business Advisory Committee are only *recommendatory* and are subject to other rules of business. Since the discussion was on the basis of a motion, the Chairman had to fix the time in accordance with the rules. The rules do not say that because it is included in the Business Advisory Committee's recommendations, it must be taken up.<sup>90</sup>

**Committee on Petitions***Petitions*

The concept of petitioning for redressal of grievances finds an indirect recognition in the Constitution which provides that every person shall be entitled to submit a representation for the redressal of any grievance to

any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.<sup>91</sup> Chapter X of the Rules of Procedure and Conduct of Business in the Rajya Sabha contains rules for the presentation of petitions by the people and their consideration by a Committee of the House specially set up for the purpose.<sup>92</sup>

#### *Scope of petitions*

Petitions may be presented or submitted to the Rajya Sabha with the consent of the Chairman<sup>93</sup> on a Bill which has been published or which has been introduced or in respect of which notice of a motion has been received;<sup>94</sup> or on any other matter connected with the business pending before the House,<sup>95</sup> or on any matter of general public interest,<sup>96</sup> provided that it is not one which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of inquiry or a statutory tribunal or authority or a *quasi* judicial body, or a commission, or which raises matters which are not primarily the concern of the Government of India, or which can be raised on substantive motion or resolution, or for which remedy is available under the law, including subordinate legislation (*i.e.*, rules, regulations, or bye-laws made by the Central Government or by an authority).<sup>97</sup> Generally, before the Chairman consents to the presentation or submission of the petition to the Council, it is examined, if necessary, after obtaining comments of the Government, whether the subject-matter falls *prima facie* within the permitted scope.

#### *General form of a petition*

A petition has to be submitted in a prescribed form. The general form of a petition is set out in the First Schedule to the Rules of Procedure and Conduct of Business in the Rajya Sabha and may be used with such variations as the circumstances of each case require and when it is so used, it is considered sufficient.<sup>98</sup> As may be seen from the form, a petition should be formally addressed to the Rajya Sabha, should contain the name and designation or description of the petitioner(s) in concise form, a concise statement of the case of the petitioner(s) and should conclude with a prayer reciting the definite object of the petitioner in regard to the matter to which it relates<sup>99</sup> (*e.g.*, ‘that the Bill be or be not proceeded with’ or ‘that special provision be made in the Bill to meet the case of the petitioner(s)’ or any other appropriate prayer regarding the Bill or matter pending before the House or a matter of general public interest). Every petition should be couched in respectful and temperate language. Every petition has to be either in Hindi or in English. If a petition is made in any other language, it is required to be accompanied by translation either in Hindi or in English and signed by the petitioner.<sup>100</sup>

The Secretary had received nine petitions on the Hindu Succession Bill, 1954, in Telugu language. The matter was reported to the House on 28 November 1955. The Committee considered the petitions and directed circulation of its English translation *in extenso* as a paper to the Bill.<sup>101</sup>

The full name and address of every signatory to a petition has to be set out in the petition and has to be authenticated by the signatory, if literate by his signature and if illiterate by his thumb impression.<sup>102</sup> Letters, affidavits or other documents should not be attached to any petition.<sup>103</sup> Every petition, if it is to be presented by a member, has to be countersigned by him.<sup>104</sup>

#### *Presentation of petition to the House*

A member who intends to present a petition to the House has to give an advance intimation to the Secretary-General of his intention to present a petition.<sup>105</sup> After receipt of such a petition, it is examined in the Secretariat to determine its admissibility in accordance with the rules relating to petitions. If the Chairman admits a petition, the member concerned is permitted to present the petition on a date convenient to him and the necessary entry is made in the list of business of the day for the presentation of the petition. The presentation item is listed immediately after papers to be laid on the Table.

A member of the Lok Sabha may give a petition to be presented in the Rajya Sabha by a member of the Rajya Sabha. For instance, a petition was presented to the Rajya Sabha signed by Shri Ram Kanwar Berwa, M.P. (Lok Sabha) regarding inclusion of Berwa Community in the list of Scheduled Castes.<sup>106</sup>

A member presenting a petition confines himself to a statement in the form: “I beg to present a petition signed by... petitioner(s) regarding...” as given in the list of business. No debate is permitted on this statement.<sup>107</sup>

#### *Report of a petition by Secretary-General*

The Rules of Procedure provide that a petition may be presented by a member or be forwarded to the Secretary-General.<sup>108</sup> In the latter case the fact is reported by the Secretary-General to the House. During early years of the Rajya Sabha, on many occasions, the Secretary had reported the petitions received by him to the House on Bills pending before it.

The Secretary reported the petitions on the Hindu Marriage and Divorce Bill, 1952 (total one hundred seventy-three petitions reported at various sittings);<sup>109</sup> the Indian Tariff (Second Amendment) Bill, 1954, as passed by the Lok Sabha and transmitted to the Rajya Sabha;<sup>110</sup> the Code of

Criminal Procedure (Amendment) Bill, 1955;<sup>111</sup> the Constitution (Fourth Amendment) Bill, 1954;<sup>112</sup> the Hindu Succession Bill, 1954 (nine petitions);<sup>113</sup> the States Reorganisation Bill, 1956 (total two hundred thirty-three petitions reported at various sittings);<sup>114</sup> the Lady Hardinge Medical College and Hospital Bill, 1959 (four petitions);<sup>115</sup> the Bombay Reorganisation Bill, 1960 (two petitions);<sup>116</sup> the Super Profits Tax Bill, 1963;<sup>117</sup> and the Punjab Reorganisation Bill, 1966 (two petitions).<sup>118</sup> Besides, the Secretary had also reported petitions (total four hundred reported at two sittings) on the Factories (Amendment) Bill, 1952, introduced in the Rajya Sabha by a private member, on 8 December 1952.<sup>119</sup>

#### *Reference to Committee*

Every petition, after presentation by a member or reported by the Secretary-General, as the case may be, stands referred to the Committee on Petitions.<sup>120</sup>

#### *Constitution of the Committee on Petitions*

The Chairman nominates, from time to time, a Committee on Petitions consisting of ten members.<sup>121</sup>

The Committee was constituted first time in 1952 with a Chairman and four other members. The membership of five continued till 1964 when it was increased to ten.<sup>122</sup>

The Chairman of the Committee is appointed by the Chairman, Rajya Sabha from amongst the members of the Committee. If the Deputy Chairman is a member of the Committee, he is appointed the Chairman of the Committee.<sup>123</sup> The Committee holds office until a new Committee is nominated.<sup>124</sup> Casual vacancies in the Committee are filled by the Chairman.<sup>125</sup> The quorum of the Committee is five.<sup>126</sup>

#### *Functions*

Till the year 1964, petitions could be presented to the Rajya Sabha only with regard to (i) Bills which had been published in the Gazette of India or which had been introduced in the House or in respect of which notice of a motion had been received under the rules or (ii) matters connected with the business pending before the Rajya Sabha. The function of the Committee was thus limited. The Committee used only to recommend the circulation of the petitions *in extenso*<sup>127</sup> or in a summary form,<sup>128</sup> for the information of the members so that the members, if they so desire, pursue the points mentioned in the petition and influence the course of the Bill in the House. Since 1964, when the Rules of Procedure of the Rajya Sabha were revised, the scope of the Committee had been enlarged. Under the revised rules, petitions may be presented on any matter of general public interest also.<sup>129</sup>

Thus, the functions of the Committee are (i) to examine every petition referred to it;<sup>130</sup> and (ii) to report to the House on specific complaints made therein after taking such evidence as it deems fit and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future.<sup>131</sup>

#### *Functioning of the Committee*

In practice, the Committee orders the circulation to members, of those petitions which relate to Bills or matters pending before the House, *in extenso* or in summary form.

In respect of a petition reported by the Secretary on the Constitution (Fourth Amendment) Bill, 1954, the Committee found that the petitioner had cited several instances in support of his prayer and since those cases were pending in the Delhi High Court and the Supreme Court, those matters were *sub judice*. The Committee, therefore, directed circulation of a summary of the petition containing contents of some paragraphs and the final prayer of the petition as a paper to the Bill.<sup>132</sup>

The Committee in its seventh report had directed circulation of petitions on the States Reorganisation Bill *in extenso*.<sup>133</sup> Subsequent petitions received on the same Bill being similar to the earlier petitions, the Committee directed that they need not be circulated and only a report thereon be circulated to members.<sup>134</sup>

So far as the petitions on matters of general public interest are concerned, the Committee examines in depth the complaints and grievances contained therein, calls for formal comments from the relevant Ministries or Departments of the Government and examines witnesses, including the petitioners and the representatives of the Ministries or Departments concerned with the subject-matter of the petitions. If need be, the information may also be called for from the State Government concerned and the officials of the State Governments may also be examined by the Committee with the prior permission of the Chairman, Rajya Sabha.<sup>135</sup> The Committee may also undertake on-the-spot study tours to gain first-hand knowledge of the problem which is the subject of the petition.

The Chairman, Rajya Sabha issued, on 22 June 1976, the following direction to the Committee enabling it to frame rules for its internal working:

“The Committee on Petitions shall determine its own procedure in connection with all matters relating to the petition referred to it including implementation of recommendations contained in its report presented to the Council.”<sup>136</sup>

In pursuance of the direction, the Committee has framed its internal working rules which are as under:

After the presentation of report on a petition to the House, the Secretariat circulates a copy of the petition to the members of the Committee for their information together with facts or comments on the petition, wherever obtained from the Ministry concerned.

When the date and time of a sitting of the Committee have been fixed, notice thereof along with the agenda is circulated to the members of the Committee.

The papers circulated to the Committee are treated as confidential and the contents thereof cannot be divulged to anyone without the permission of the Chairman of the Committee.

A member, who is not a member of the Committee, may be invited to attend a sitting of the Committee under the orders of the Chairman of the Committee but he is not entitled to vote.

A record of the proceedings of each sitting of the Committee is kept. The Secretariat prepares minutes of each sitting of the Committee. The fact that the evidence was given before the Committee is mentioned in the minutes of the relevant sitting. The minutes of each sitting of the Committee are circulated to the members of the Committee.

Where the Committee so directs, the facts of the case or comments of the Ministry concerned on a petition are obtained by the Secretariat and placed before the Committee for its consideration.

The Secretariat prepares draft report of the Committee containing its recommendations which are placed before the Committee for its approval.

As soon as possible, after presentation of the report to the House, copies thereof are circulated to the members of the House and the Ministries concerned. A copy of the report is also forwarded to the petitioner concerned. In case a petition is signed by more than one person, a copy of the report is forwarded to the first signatory to the petition only.

The Ministries have to furnish to the Secretariat, within a period of six months from the date of presentation of the report, statements showing action taken or proposed to be taken by them on the recommendations made by the Committee in its reports. The information so received, is placed before the Committee for consideration in the form of a memorandum.

Where any Ministry is not in a position to implement, or feels any difficulty in giving effect to a recommendation made by the Committee, the views of the Ministry are placed before the Committee, which may, if necessary, present a further report to the House, after considering the views of the Ministry in the matter.<sup>137</sup>

*Report*

The report of the Committee is presented to the House by the Committee Chairman or in his absence by any member of the Committee.<sup>138</sup> The report has to state the subject-matter of the petition, the number of persons by whom it is signed and whether it is in conformity with the rules (relating to petitions) and also whether circulation has or, has not been directed.<sup>139</sup>

In the case of petitions on the State Reorganisation Bill 1956, presented by some members, the Committee observed that some of them were not in proper form, not directly addressed and not properly worded. The Committee, therefore, felt that it would be sufficient to report the subject-matter of the petition. The Committee also observed that when any member presented a petition, he should take the trouble of scrutinising the petition himself.<sup>140</sup> Subsequent to this, more petitions were reported to the House by the Secretary and referred to the Committee. They were not circulated, since they were received late and the consideration of the Bill in the House was going to be concluded within a couple of hours. The Committee, however, only presented a report in respect of them.<sup>141</sup>

A petition relating to the Super Profits Tax Bill, 1963 was reported to the House by the Secretary. The Committee, on the examination of the petition, found that the same was not couched in respectful and temperate language. In view of this, the Committee decided that the petition need not be circulated.<sup>142</sup>

In respect of specific complaints made in the petition referred to it, the Committee after taking such evidence as it deems fit suggests remedial measures either in a concrete form applicable to the case under review or to prevent such cases in the future.<sup>143</sup>

As regard petitions on Bills pending before a Select Committee, the same are referred to that Committee.

In the case of petitions received on the States Reorganisation Bill, 1956, which were reported to the House by the Secretary, the Committee reported thereon and copies of the reports were forwarded to the members of the Joint Committee on the Bill.<sup>144</sup>

*Representations*

The Committee on Rules at one time had agreed with a suggestion that the Committee on Petitions should also consider the representations, letters and telegrams from individuals or associations containing prayer for redress of grievances and recommended that the Chairman might consider issuing of necessary direction in this regard. However, later the Committee reconsidered the decision in detail and came to the conclusion that the

Committee on Petitions should function within the ambit of the existing provisions contained in the Rules of Procedure and its scope need not be widened to allow it to consider such petitions as were not covered by the Rules of Procedure, in view of the fact that there were other normal channels open for preferring such petitions. The Committee, therefore, in supersession of its earlier decision, was of the view that the Chairman need not issue any direction in this regard.

However, Chairman, Rajya Sabha issued a direction<sup>145</sup>on 1 July 2011 wherein it was provided that the Committee on Petitions shall take up consideration of representations, letters and telegrams from various individuals, associations, etc., which are not covered by the rules relating to petitions, but all representations/letters which are either anonymous or do not contain any specific request are not considered by the Committee and are to be filed in the Secretariat.

The Secretariat scrutinises all representations considered by the Committee and in cases where it is considered that the matter raised in the representation may be brought to the notice of the concerned Ministry/Department, it is forwarded to that Ministry or Department for whatever action as may be deemed fit in the matter.

Representations against the conduct of members are also not admitted in view of the convention that the House does not permit outside interference in its internal procedural matters. Complaints against members of the House regarding their private conduct are placed before the Chairman and no further action is taken thereon.<sup>146</sup>

### **Committee of Privileges**

#### *Constitution*

The Chairman nominates, from time to time, a Committee of Privileges consisting of ten members.<sup>147</sup> The Chairman of the Committee is appointed by the Chairman of the Rajya Sabha from amongst the members of the Committee.<sup>148</sup> If the Committee Chairman is for any reason unable to act, the Chairman similarly appoints another Committee Chairman in his place.<sup>149</sup> If the Committee Chairman is absent from any meeting, the Committee chooses another member to act as Committee Chairman for that meeting.<sup>150</sup>

As per convention established since 1958, the Deputy Chairman is always nominated as a member of the Committee and, therefore, he is appointed as the Chairman of the Committee. The Committee was constituted for the first time on 22 May 1952, and its first Chairman was Shri B. Pattabhi Sitaramayya.<sup>151</sup> The Chairmen of the Committee appointed subsequently were: Shri C.C. Biswas, Minister of Law and the Leader of the House;<sup>152</sup> and Shri G.B. Pant, Minister of Home

Affairs and the Leader of the House.<sup>153</sup> Since 1958,<sup>154</sup> the Deputy Chairman is being appointed as the Chairman of the Committee, continuously except in 1969-70 when Shri M.C. Setalvad was appointed the Chairman of the Committee.<sup>155</sup>

Casual vacancies in the Committee are filled by the Chairman.<sup>156</sup> The Committee holds office until a new Committee is nominated.<sup>157</sup> Usually, the Committee is reconstituted every year along with other parliamentary committees of the Rajya Sabha. The quorum of the Committee is five.<sup>158</sup>

#### *Functions*

##### (a) Under the rules

When leave to raise a question of privilege is granted by the House, the House may consider the question and come to a decision or refer it to the Committee on a motion made either by the member who has raised the question of privilege or by any other member.<sup>159</sup> The House, as per the practice, usually refers questions of privilege to the Committee before arriving at a decision on the question raised.

The Chairman may also *suo motu* refer any question of privilege to the Committee for examination, investigation and report.<sup>160</sup> In such cases also the Committee's report is presented to the House and further action in the matter is taken in accordance with the decision of the House.

It is the duty of the Committee to examine every question of privilege referred to it, determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of the breach, the circumstances leading to it, and make such recommendations as it may deem fit,<sup>161</sup> including some specific form of punishment to be awarded to the offender.<sup>162</sup> The Committee may also suggest the procedure to be followed by the House in giving effect to the recommendations made by the Committee.<sup>163</sup>

##### (b) Advisory functions

The Committee has also sometimes been required by the Chairman to advise on or address specifically to certain issues relating to the privileges.

The Committees of Privileges of both the Houses held joint sittings and presented a joint report on the question of procedure to be followed in cases where a member or an officer of one House was alleged to have committed a breach of privilege or contempt of the other House.<sup>164</sup>

The Committee was required to examine the aspect of privilege jurisdiction over a person who was not a national or citizen of India and the procedure to be followed in such cases and to report to the Chairman.<sup>165</sup>

The Committee was, *inter alia*, asked specifically to address itself to the question concerning the precise scope of article 79 of the Constitution and whether aspersions cast on the President could be termed as derogatory to the institution of Parliament so as to attract its privilege jurisdiction.<sup>166</sup>

The Committee has laid down the procedure to be followed in a case where a member of the House is requested to appear to tender evidence before the other House or a House of a State Legislature or a Committee thereof.<sup>167</sup>

The Chairman referred a matter arising out of an article in which certain reflections were cast on a member in a Bombay Weekly, to the Committee, for its views.<sup>168</sup>

On an occasion when allegations were made by a member against a Minister and the latter denied them and both of them agreed to prove their cases before a Committee, the Chairman referred the matter to the Committee "for advice as to what course of action should be adopted in the case".<sup>169</sup>

(c) Under the anti-defection rules

With the coming into force of the Members of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985, with effect from 18 March 1986, which were made by the Chairman under paragraph 8 of the Tenth Schedule to the Constitution, an additional function has been assigned to the Committee. The Chairman may, if he is satisfied, having regard to the nature and circumstances of the case, that it is necessary or expedient to do so, refer a petition regarding the disqualification of a member on ground of defection to the Committee for making a preliminary inquiry and submitting a report to him.<sup>170</sup>

*Powers*

The Committee has power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties.<sup>171</sup> If any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question is referred to the Chairman, whose decision is final.<sup>172</sup>

The Government may, however, decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.<sup>173</sup>

A witness is summoned by an order signed by the Secretary-General and has to produce, subject to the condition mentioned above, such documents as are required for use of the Committee.<sup>174</sup> It is, however, in

the discretion of the Committee to treat any evidence tendered before it as secret or confidential.<sup>175</sup>

#### *Functioning of the Committee*

After a question of privilege has been referred to the Committee, it meets from time to time to consider the question.<sup>176</sup> A memorandum<sup>177</sup> or background note on the subject is prepared by the Secretariat for the consideration of the Committee. The memorandum/note sets out briefly the issue(s) involved, the facts of the case, and the law, practice and precedents having a bearing on the question before the Committee. This memorandum/note is circulated to members of the Committee along with the notice of the sitting at which the matter is to be considered by the Committee. The Committee may also ask the Secretary-General to have a memorandum prepared for its consideration on any specific point of fact or law involved in the matter.

In *M.O. Mathai's* case, the Secretary was requested to prepare for the information of the Committee a note setting out the law and precedents in other countries particularly, in U.K. regarding reflections on the House and its members.<sup>178</sup>

In another case the Secretary placed before the Committee the law and precedents in the context of a case of a police officer who visited a member's residence to question the member about disclosures he had made on the floor of the House.<sup>179</sup>

In yet another case, the Committee directed the Secretariat to study the precedents, cases, etc. if any, in the Commonwealth and other countries, where provision similar to article 79 of the Constitution existed, to enable the Committee to examine the constitutional questions referred by the Chairman.<sup>180</sup>

While examining the question of privilege, the Committee may hear the member who raised the question of privilege in the House<sup>181</sup> or permit him to explain his case in a written statement,<sup>182</sup> or hear any other member of the House to place his views before the Committee on the question of privilege under consideration<sup>183</sup> or may not hear him, if it is not necessary to do so.<sup>184</sup> It is the general practice of the Committee to give an opportunity to the person alleged to have committed a breach of privilege or contempt of the House, to submit his explanation to the Committee in writing and also in person, if needed. The Committee does not associate any person or body from outside, formally or informally with its deliberations. The Committee may, however, seek the assistance of the Law Minister or the advice of the Attorney-General on matters under its consideration, and request the former to attend the sittings of the Committee as a special invitee.<sup>185</sup>

In a case the Committee had sought the advice of the Minister of Law, who was invited to the Committee for the purpose, on the legal implications of the privilege matter arising out of certain allegatory statements made in an affidavit filed before a court of law.<sup>186</sup>

The Committee sought the opinion of the Attorney-General in matters such as (i) Parliament's power to impose a fine on a contemner;<sup>187</sup> (ii) the scope of article 79 and whether aspersions cast on the President could be termed as derogatory to the institution of Parliament so as to attract its privilege jurisdiction;<sup>188</sup> and (iii) jurisdiction of the Committee over foreign nationals for any breach of privilege or contempt of the House committed by them while in India.<sup>189</sup>

So far as the Committee's functioning while considering the question of disqualification of a member on ground of defection is concerned, the procedure followed by the Committee for the purposes of making a preliminary inquiry is generally the same as the procedure for inquiry and determination by the Committee on any question of breach of privilege of the House. The Committee does not come to any finding that a member has become subject to disqualification under the Tenth Schedule without affording a reasonable opportunity to such a member to represent his case and be heard in person.<sup>190</sup>

#### *Report*

After a question of privilege has been referred to the Committee, the Committee has to consider the matter and make a report within the time fixed by the House.<sup>191</sup> The time is fixed in the motion itself or if the Chairman refers the question of privilege to the Committee, by the Chairman.

On 7 April 1967, the Chairman informed that the matter of arrest of a member was being referred to the Committee "with the request that they should submit their report before the end of the next session".<sup>192</sup>

On 7 September 1970, the House adopted a motion referring a complaint of breach of privilege to the Committee with instructions to report to the House "before the end of the next session".<sup>193</sup>

On 7 April 1971 also, the House adopted a similar motion referring another complaint to the Committee.<sup>194</sup>

Where the House has not fixed any time for the presentation of the report, the report is to be presented within one month of the date on which reference to the Committee has been made.<sup>195</sup> The House may, however, at any time, on a motion being made, direct that the time for the presentation of the report by the Committee be extended to a date specified in the motion.<sup>196</sup>

A question of privilege arising out of certain writings contained in an affidavit filed before a court was referred by the House on a motion to the Committee on 1 May 1963. The Committee presented its preliminary report<sup>197</sup> on 16 December 1963, recommending grant of extension of time for presentation of the final report. The House adopted a motion on 17 December 1963, agreeing with the recommendation contained in the report on granting extension of time. The Committee presented the final report<sup>198</sup> on 7 December 1966.

On 7 April 1967, by an announcement made in the House the Chairman referred to the Committee a case of arrest of a member of the Committee with the request that it should report before the end of the next session (60<sup>th</sup> Session). As authorised by the Committee, the Committee Chairman moved a motion in the House on 23 June 1967, asking for extension of time for the presentation of the report by the end of the next session (61<sup>st</sup> Session). The motion was adopted. The report was presented on 14 August 1967 as the 61<sup>st</sup> Session came to a close on 18 August 1967.<sup>199</sup>

The complaint against Shri Ram Nath Goenka was referred to the Committee by the House on 7 September 1970, with instructions to report before the end of the next session (74<sup>th</sup> Session). The Committee was granted extension of time first upto the end of the 75<sup>th</sup> Session<sup>200</sup> and then upto the end of the 76<sup>th</sup> Session.<sup>201</sup> The Committee presented the report on 11 June 1971.<sup>202</sup>

The report of the Committee is signed by the Committee Chairman on behalf of the Committee.<sup>203</sup> In case the Committee Chairman is absent or is not readily available, the Committee can choose any other member to sign the report on behalf of the Committee.<sup>204</sup> As a matter of practice generally the oral evidence tendered before the Committee is not appended to the report of the Committee. However, written explanations or submissions, received in the case are appended to the report.<sup>205</sup>

No minute of dissent is appended to a report, but the Committee may mention in the report or minutes that a member expressed his dissent from the report or its findings or recommendations. The Committee has also permitted note(s) containing the views of member(s) being appended to the report.

In a case, the Committee stated in a paragraph that a member of the Committee did not agree with the majority view of the Committee. A note submitted by the concerned member expressing his disagreement was appended to the report.<sup>206</sup>

In another case, the Committee stated at the end of the relevant paragraph of the report that a particular member did not agree with that view but did not append the views of the dissenting member.<sup>207</sup>

The dissenting notes of three members of the Committee were appended to the nineteenth Report of the Committee on the question of punishment to be awarded to contemnors.<sup>208</sup>

The report of the Committee is presented to the House by the Committee Chairman or in his absence by any member of the Committee<sup>209</sup> duly authorised by it. The Committee, generally, fixes the date on which its report is to be presented.

#### *Consideration of report*

After the report has been presented to the House, the Committee Chairman or any member of the Committee may move a motion that the report be taken into consideration,<sup>210</sup> whereupon the Chairman may put the question to the House. Any member may give notice of amendment to the motion for consideration of the report in such form as may be considered appropriate by the Chairman.<sup>211</sup> An amendment may also be moved that the question be re-committed to the Committee either without limitation or with reference to any particular matter.<sup>212</sup>

After the motion for consideration of the report has been carried, the Committee Chairman or any member of the Committee or any other member, as the case may be, may move that the House agrees, or disagrees, or agrees with amendments, with the recommendations contained in the report.<sup>213</sup> Generally, when the Committee recommends certain action to be taken by the House or procedure to be adopted in a particular respect, a motion is moved on that behalf for the decision of the House. The following are instances when the House has adopted motions in respect of reports of the Committee.

The Committee in its first Report, *inter alia*, recommended a procedure to be followed in respect of production of documents, etc. in the custody of the Secretariat, before a court, etc. The House adopted the report of the Committee.<sup>214</sup>

The Committees of Privileges of the Lok Sabha and the Rajya Sabha in their Joint Report to both the Houses on 23 August 1954, laid down the procedure to deal with cases when a member of one House committed the breach of privilege of another House. The Leader of the House moved a motion approving the recommendations of the Joint Sitting of the Committees.<sup>215</sup>

The twelfth Report of the Committee dealt with an issue of questioning of a member outside the House by police authorities in regard to disclosures made by that member in the House. To the motion that the report be taken into consideration, an amendment was moved: that the question which formed the subject-matter of the report be recommitted to the Committee.<sup>216</sup> The amendment was negatived.

Some other amendments were also moved to (i) substitute a word by another one; (ii) delete a sentence from the report; and (iii) add certain words. Thereafter, a motion was moved that the House agreed with the report subject to the amendments (agreed to earlier). Thereafter, another member moved an amendment that *for* the words “agrees with the report”, the words, “while agreeing with the report of the Committee directs the Home Minister to prepare a set of instructions for the guidance of the police officers who are investigating a criminal case and in that connection wish to make an enquiry from a Member of Parliament regarding any document divulged in a statement made in the House by him and to make a report to this House” be *substituted*. After the assurance of the concerned Minister, the amendment was withdrawn and the original motion was put to vote and adopted.<sup>217</sup>

The nineteenth Report pertained to a case where the principal author of a book, who was also its publisher, was found guilty of deliberately and repeatedly misrepresenting proceedings and action of Parliament in its book and therefore caused breach of privilege and contempt of the House. The Committee recommended that while the main author and publisher be sentenced to imprisonment the two co-authors be summoned to the bar of the House and reprimanded. To the motion moved by the Leader of the House that the report be taken into consideration, a member moved an amendment for recommitting to the Committee for reconsideration of its recommendations regarding imposition of punishment on the contemners. The motion, as amended, was adopted. The Committee reconsidered the matter and presented another report (twentieth report) modifying its earlier recommendation regarding punishment. The Leader of the House then moved a motion for consideration of the twentieth Report. Thereafter, he also moved a motion that the House agreed with the findings contained in the nineteenth Report and recommendations contained in the twentieth Report.<sup>218</sup>

The Committee in its thirty-third Report considered and laid down the procedure regarding giving of evidence by a member of the House before the other House of Parliament or State Legislature or a Committee thereof. The report of the Committee was adopted by the House on a motion moved by a member of the Committee.<sup>219</sup>

There have been few occasions when the House has agreed<sup>220</sup> to the Committee Reports wherein it recommended punishment for a person found guilty of contempt of the House/breach of privilege. However, if the report is to the effect that no breach of privilege is involved<sup>221</sup> or committed,<sup>222</sup> or that no further action be taken by the House in the matter or that the matter need not be pursued further,<sup>223</sup> then no further proceedings are initiated. Other cases in which no further proceedings take place in the House following the recommendation of the Committee to that effect include

reports that an offender has regretted for the offence and tendered unqualified apology,<sup>224</sup> or that the House will serve or consult its own dignity if it proceeds no further in the matter,<sup>225</sup> or that no further time should be occupied in the consideration of the matter,<sup>226</sup> or that the matter be dropped,<sup>227</sup> or treated as closed and allowed to rest there,<sup>228</sup> or that it is not necessary to attach undue significance to the matter.<sup>229</sup>

#### *Regulation of Procedure*

The Chairman may issue such directions as he may consider necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee or in the House.<sup>230</sup>

In a case, the Chairman directed the Committee to stay consideration of a question of privilege referred to it by him till he considered the comments of the member involved.<sup>231</sup>

In another case, the Committee was specifically directed to address itself to certain points mentioned in the reference of the question to the Committee.<sup>232</sup>

In yet another case regarding disqualification of a member which was under the consideration of the Committee, the Chairman directed that the Committee need not proceed with the reference in view of the retirement of the member against whom the petition was made.<sup>233</sup>

#### **Committee on Ethics**

Members of Parliament had on various occasions expressed themselves in favour of evolving an internal self-regulatory mechanism for enforcing ethical and moral values in public life. The formation of the Committee on Ethics in Rajya Sabha was a step in this direction.<sup>234</sup> The Committee on Ethics of Rajya Sabha was constituted by the Chairman, Rajya Sabha on 4 March 1997 to oversee the moral and ethical conduct of the members and to examine the cases referred to it with reference to their ethical and other misconduct.<sup>235</sup>

#### *Constitution*

The Committee consists of ten members nominated by the Chairman from time to time. The Committee holds office until a new Committee is constituted. Casual vacancies in the Committee are filled by the Chairman.<sup>236</sup> The Chairman of the Committee is appointed by the Chairman, Rajya Sabha from amongst the members of the Committee. If the Chairman of the Committee is unable to act for any reasons, the Chairman may appoint another Chairman of the Committee in his place. However, if the Chairman of the Committee is absent from any meeting, the Committee shall choose

another member to act as Chairman of the Committee for that meeting.<sup>237</sup> Presence of five members out of the total ten members constitutes the quorum of the Committee.<sup>238</sup>

#### *Functions*

The functions of the Committee may be categorised into two: (i) the core functions; and (ii) the functions that percolate from the provisions enshrined in the Act and rules.

The main functions of the Committee includes overseeing the moral and ethical conduct of members, preparing a Code of Conduct for members and to suggest amendments or additions to the Code from time to time, examination of cases concerning the alleged breach of Code of Conduct by members as also concerning allegations of any other ethical misconduct of members and tendering advice to members from time to time on questions involving ethical standards either *suo motu* or on receiving specific requests.<sup>239</sup> Notwithstanding anything contained in the rules, the Chairman, Rajya Sabha may refer any question involving ethical and other misconduct of a member to the Committee for examination, investigation and report.<sup>240</sup>

The Committee is also mandated to function as record keeper and overseer in respect of ‘The Members of Rajya Sabha (Declaration of Assets and Liabilities) Rules, 2004,’ framed by the Chairman, in exercise of his powers conferred by sub-section (3) of Section 75A of the Representation of the People (Third Amendment) Act, 2002. Under the said rules, every elected member of the Rajya Sabha is required to furnish information regarding his/her assets and liabilities as well as the assets and liabilities of his immediate family members to the Chairman, Rajya Sabha within 90 days from the date on which he makes and subscribes an oath or affirmation. Also under the said rules, a Register of Declaration of Assets and Liabilities of Members is maintained and the information contained in the Register may be divulged to any person on receiving requests from him after written approval of Chairman, Rajya Sabha. The information from the Register is being provided under the relevant rules and also on the requests received under the Right to Information Act, 2005.

Under the Rules of Procedure,<sup>241</sup> the Committee is also mandated to maintain a “Register of Members’ Interest” in such form as may be determined by the Committee which shall be available to members for inspection on request. Every member is required to declare in a prescribed Form, information on five pecuniary interests, viz. (i) Remunerative Directorship; (ii) Regular Remunerated Activity; (iii) Shareholding of Controlling Nature; (iv) Paid Consultancy; and (v) Professional Engagement<sup>242</sup>, Information maintained in the Register may be made available to a person with written

permission of the Chairman, Committee on Ethics after fulfilment of certain conditionalities mentioned in the Sixth Report of the Committee. Information from the Register is also being provided under the relevant rule and also on the requests being received under the Right to Information Act, 2005.

The Chairman, Committee on Ethics on 20 October 2011, had granted his permission to provide the information contained in the Register of Members' Interest on a request received under RTI Act and on the requests received under sub-rule (3) of rule 293 of the Rules of Procedure and Conduct of Business in the Council of States.

#### *Powers*

The Committee has the power to require the attendance of persons or the production of papers or records, if such a course is considered relevant and necessary for the discharge of its duties. However, if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question is referred to the Chairman and his decision shall be final. The Committee may also summon a witness who shall have to produce such documents as are required for the use of the Committee. It is the discretion of the Committee to treat any evidence, oral or documentary, tendered before it as secret or confidential.

Any person may make a complaint to the Committee regarding alleged unethical behaviour or breach of the Code of Conduct by a member or incorrect information of a member's interest. The Committee may also take up matters *suo motu*. Members may also refer cases to the Committee. A complaint is to be addressed in writing to the Committee or to an officer authorised by it in such form and manner as the Committee may specify. Person making a complaint must declare his identity and submit supporting evidence, documentary or otherwise, to substantiate his allegations. The Committee does not disclose the name of the complainant if so requested and if the request is accepted by the Committee for sufficient reasons. A complaint based merely on an unsubstantiated media report is not to be entertained. The Committee does not take up any matter which is *sub judice* and the decision of the Committee as to whether such matter is or is not *sub judice* is treated as final for the purposes of this rule.<sup>243</sup>

If the Committee is satisfied that the complaint is in proper form and the matter is within its jurisdiction, it may take up the matter for inquiry. If the Committee finds that there is *prima facie* case, the matter is taken up for examination and report. The Committee may also frame rules from time to time to give effect to its mandate and for conducting inquiries either by itself or by any official acting under its authority.<sup>244</sup>

Where the Committee finds that a member has indulged in unethical behaviour or that there is other misconduct or that the member has contravened the code/rules, the Committee may recommend the imposition of one or more of the following sanctions, viz: (a) censure (b) reprimand (c) suspension from the Council for a specific period; and (d) any other sanction determined by the Committee to be appropriate.<sup>245</sup>

The report of the Committee is presented to the Council by the Chairman of the Committee or in his absence by any member of the Committee.<sup>246</sup> After the report is presented, a motion in the name of Chairman of the Committee or any member of the Committee may be moved for consideration of the report.<sup>247</sup> Any member may give notice of amendment to the motion for consideration of the report in such form as may be considered appropriate by the Chairman.<sup>248</sup> After the motion for consideration of the report is carried, the Chairman or any member of the Committee or any other member, as the case may be, may move that the Council agrees, or disagrees or agrees with amendments, with the recommendations contained in the report.<sup>249</sup> The Chairman may issue such directions as he may consider necessary for regulating the procedure in connection with all matters connected with the examination of cases with reference to ethical and other misconduct of members either in the Committee or in the Council.<sup>250</sup>

#### *Functioning of the Committee*

The Committee on Ethics in its first Report presented to the House on 8 December 1998 and adopted by it on 15 December 1999, after having deliberated on the ‘Code of Conduct for Members’ at length, came to a definite conclusion that a framework of Code of Conduct be prepared for the members of Rajya Sabha. The Committee in its fourth Report also considered the ‘Code of Conduct for Members’ and was of the view that the Code enumerated in the first Report was quite comprehensive and endorsed the same. It also identified five pecuniary interests, for which information has to be furnished by members for registration in the ‘Register of Members’ Interests’. The fourth Report of the Committee was presented to the House on 14 March 2005 and adopted by it on 20 April 2005.

The Committee also looked into the unethical conduct of a member. On 12 December 2005, a private channel telecast a programme titled ‘Operation Duryodhan’ where some Members of Parliament were shown receiving money for raising questions in Parliament. One of the members shown in the programme belonged to Rajya Sabha. The Committee in the first instance itself was of the view that there was violation of para (v) of the Code of Conduct which states that:

Member should never expect or accept any fee, remuneration or benefit for a vote given or not given by them on the floor of the House, for introducing a Bill, for moving a resolution or desisting from moving a resolution, putting a question or abstaining from asking a question or participating in the deliberations of the House or a Parliamentary Committee.

The Committee, therefore, unanimously recommended that the said member be suspended from the House, pending the presentation of its final report on the subject. A paragraph regarding suspension of the member was published in the Rajya Sabha Parliamentary Bulletin Part-II dated 13 December 2005. Thereafter, the Committee undertook the detailed examination of the conduct of the member and finally in its seventh Report, presented and adopted on 23 December 2005, recommended his expulsion from the membership of the House as his conduct was derogatory to the dignity of the House and inconsistent with the Code of Conduct adopted by the House. Accordingly, the member was expelled from the House.<sup>251</sup>

Similarly, on 19 December 2005, another private channel telecast a programme titled ‘Operation Chakravyuh’ alleging improper conduct of some Members of Parliament in the implementation of the Members of Parliament Local Area Development (MPLAD) Scheme. Two members shown in the programme belonged to Rajya Sabha. This case was also referred to the Committee on Ethics by the Chairman, Rajya Sabha. In its eighth Report, which was presented to the House on 24 February 2006, the Committee on Ethics gave its recommendation with regard to these two members.

On the basis of facts and circumstances, after examining the cases separately, the Committee in one of the cases found the agency which shot the operation and the channel which telecast the operation had indulged in clearly unethical and probably illegal means to induce the member to accept the bribe. The agency that shot the operation had used decoys to entrap the member; offered repeated inducements; and made sweeping allegations against all Members of Parliament. The manner in which the programme had been presented by the broadcaster created an impression that the member was corrupt, whereas the tapes did not confirm it. The Committee found that the actions both of the investigating company and that of the broadcaster amounted to tarnishing the image of the member in the public eye without adequate cause and had done incalculable damage to the member’s reputation.

The Committee, therefore, was of the view that the agency that shot the programme and the channel that broadcast the episode might have committed breach of privilege and contempt of the House and that of its members. “Since the Committee on Ethics does not have the mandate to

examine questions of breach of privilege, it decided not to look further into the matter.” Therefore, the Committee recommended that “the Chairman may consider referring the complaint of the member to the Committee of Privileges for further examination and report”.<sup>252</sup>

However, in the case of the second member after detailed examination, the Committee came to the conclusion that the conduct of the member amounted to violation of clause (i) and (xiv) of the Code of Conduct for Members of Rajya Sabha which stated respectively that:

- (i) Members must not do anything that brings disrepute to Parliament and affects their credibility;
- (ii) Members are expected to maintain high standards of morality, dignity, decency and values in public life.

The Committee also found that the member involved in this case had not only committed gross misdemeanour but by his conduct, he has also compromised the dignity of the House and its members and had acted in a manner which was inconsistent with the standards which the House is entitled to expect of its members. Since the member’s conduct had brought the House and its members into disrepute and had contravened the Code of Conduct for Members of Rajya Sabha, the Committee felt that he had forfeited his right to continue as a member. The Committee, therefore, recommended that the member be expelled from the membership of the House.<sup>253</sup> The Eighth Report of the Committee was adopted by the House on 21 March 2006. Accordingly, the member concerned was expelled from the House.<sup>254</sup>

Sub-rule (1) of rule 3 of the Members of Rajya Sabha (Declaration of Assets and Liabilities) Rules, 2004 *inter alia* casts an obligation on every elected member of Rajya Sabha to furnish information in respect of the movable and immovable property of which he, his spouse and his dependent children are jointly or severally owners or beneficiaries, within ninety days from the date on which he makes and subscribes an oath or affirmation for taking his seat in the House. The definition of the term ‘dependent children’ as contained in explanation (v) to sub-section (5) of section 75A of the Representation of the People Act, 1951 applies to the said rule. A need was felt to amend this definition of the term ‘dependent children’ as there was no age bar to determine dependent children. The Committee in its ninth Report, presented to the House on 18 February 2009 recommended that definition of the ‘dependent children’ existing in explanation (v) to sub-section (5) of section 75A of the Representation of the People Act, 1951 be substituted with the one as assigned to it in the Central Civil Services (CCS) (Pension) Rules, 1972 in the context of payment of family pension.

According to the Committee, this definition appeared to be more rational and appropriate. It is also mentioned that the above said Report could not be adopted by the House. A decision was taken by the Hon'ble Chairman, Rajya Sabha that the Report could remain the property of the House and no action thereon being required to be taken.

#### **Committee on Subordinate Legislation**

The Committee on Subordinate Legislation has been set up in the Rajya Sabha to scrutinise and report to the House whether the powers to make rules, regulations, bye-laws, schemes or other statutory instruments conferred by the Constitution or delegated by Parliament have been properly exercised within such conferment or delegation, as the case may be.<sup>255</sup>

#### *Constitution*

The Committee was first constituted on 30 September 1964, by the Chairman, Rajya Sabha.<sup>256</sup> The Committee consists of fifteen members who are nominated by the Chairman.<sup>257</sup> The Committee holds office until a new Committee is nominated.<sup>258</sup> Casual vacancies in the Committee are filled by nomination by the Chairman, Rajya Sabha.<sup>259</sup> The Chairman of the Committee is appointed by the Chairman of the Rajya Sabha from amongst the members of the Committee.<sup>260</sup> If the Deputy Chairman, Rajya Sabha is a member of the Committee, he is appointed Chairman of the Committee.<sup>261</sup>

If the Committee Chairman is for any reason unable to act, the Chairman similarly appoints another member as Committee Chairman in his place.<sup>262</sup> If the Committee Chairman is absent from any meeting, the Committee chooses another member to act as Chairman for that meeting.<sup>263</sup>

In order to constitute a meeting of the Committee, the quorum is five.<sup>264</sup> The Committee Chairman cannot vote in the first instance but in the case of equality of votes, he has to exercise a casting vote.<sup>265</sup>

#### *Powers*

The Committee has power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties.<sup>266</sup> The Government may, however, decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.<sup>267</sup> Subject to this, a witness may be summoned by an order signed by the Secretary-General and shall produce such documents as are required for use of the Committee.<sup>268</sup> It is in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.<sup>269</sup>

*Functions*

After a rule, regulation, bye-law, scheme or other statutory instrument (hereinafter referred to as the ‘order’) framed in pursuance of the Constitution or the legislative functions delegated by Parliament to a subordinate authority and which is required to be laid before Parliament, is so laid before the House, the Committee in particular considers:<sup>270</sup>

- (i) whether it is in accordance with the provisions of the Constitution or the Act pursuant to which it is made;

While scrutinizing the Radiation Protection Rules, 1971, the Committee observed that a rule which gave power to the competent authority to grant exemption from the provisions of the Act was without legislative sanction of the Atomic Energy Act, 1962 under which the rules were framed.<sup>271</sup>

- (ii) whether it contains matter which in the opinion of the Committee should more properly be dealt within an Act of Parliament;

In a case the Committee recommended that the provision regarding overriding effect of an Act on agreement should be made in and authorised by the statute and not by rules.<sup>272</sup>

While examining the Commissions of Inquiry (Central) Rules, 1972, the Committee objected to a rule which empowered the Commission or the Government to determine the travelling and other allowances, that might be paid to assessors, as there was no such provision in the Commissions of Inquiry Act, 1952. In fact, there was no specific provision in the Act for appointment of assessors. The Committee, therefore, recommended that these matters should more appropriately be specified and authorised in the statute itself rather than be provided in the rules.<sup>273</sup>

- (iii) whether it contains imposition of any tax or levy of any fee, etc.;

In a number of cases the Committee has objected to levy of fee, etc. by rules without any specific authorisation under the Act, under which they have been framed. For instance, the Committee pointed out that section 282 of the Cantonments Act, 1924, did not empower a Cantonment Board to levy any fee for the purpose of vaccination. The Committee observed: “In cases of fees, charges, etc. which the Committee has held not permissible under a statute, and for regularising which a statute would have to be amended, the Ministry should issue administrative instructions to authorities concerned, to suspend collection of such fees and charges.”<sup>274</sup>

- 
- (iv) whether it directly or indirectly bars the jurisdiction of the court;

Regulation 59 of the DDA (Management and Disposal of Housing Estates) Regulations, 1968 provided that the decision of the authority on a dispute would be final. The Committee felt that the regulation was likely to be construed as ousting the jurisdiction of courts of law in the disputes between the DDA and other parties, and the DDA Act, 1957, under which the regulation had been made did not authorise or empower to oust the jurisdiction of courts.<sup>275</sup>

- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;

The Committee noticed that the Insecticides Rules, 1971, provided that they would come into force on 1 August 1971, whereas they were published only on 30 October 1971. Thus the rules had been given retrospective effect although the Act under which the rules were framed did not give any such authority.<sup>276</sup>

In another case, the Committee agreed with the opinion of the Attorney-General tendered to the Public Accounts Committee in 1970-71, in connection with exemption notification issued under the Central Excises and Salt Act, 1944 and the rules made thereunder to the effect that without a law empowering subordinate legislation to be operative retrospectively, no such legislation could have any retrospective effect.<sup>277</sup>

In yet another case, the Committee examined the issue of giving retrospective effect to FEMA regulations framed under the Foreign Exchange Management Act, 1999 by the Department of Economic Affairs, Ministry of Finance, wherein the Committee reiterated its earlier recommendations against giving retrospective effect to subordinate legislation. The Committee was assured by the Ministry that they would comply with the Committee's recommendations in this respect.<sup>278</sup>

- (vi) whether it involves expenditure from the Consolidated Fund of India or the public revenues;

The Medical Termination of Pregnancy Rules, 1972, provided, *inter alia*, for the constitution of Boards, whereas the Act under which the rules had been made did not specifically provide for setting up of such Boards. The Committee, therefore, felt that setting up of such Boards created a charge on public revenues by means of a rule.<sup>279</sup>

In another case, the Committee objected to a notification which empowered a Cantonment Board to impose a surcharge on showtax and authorised the Cantonment Board to make it over to the

State Government. The Committee obtained the opinion of the Attorney-General who held the notification as not legal and valid and the requirement of handing over the net proceeds of surcharge to State Government as equally bad in law.<sup>280</sup>

- (vii) whether it appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;

The Committee held that the DDA did not have power to make DDA (Issue and Management of Bonds) Regulations, 1970, as the Act under which they were made did not confer any such authority to do so. In the view of the Committee, it was an unexpected exercise of the power not envisaged or intended by the Act.<sup>281</sup>

- (viii) whether there has been undue delay in the framing of subordinate legislation;

The Committee has, from time to time, pointed out a number of cases where delay has taken place in making rules<sup>282</sup> or laying them on the Table<sup>283</sup> or non-framing of rules in time.<sup>284</sup>

The Committee has repeatedly expressed its concern over the delays in framing of rules/regulations under different Acts and has, therefore, recommended to complete the process of framing of subordinate legislation within a period of six months. If it is not possible to do so, the concerned Ministries/Departments should invariably inform the Committee of the reasons for delay and seek extension of time for completing the process. The Committee, however, has observed that in most of the cases, Ministries/Departments failed to ensure the framing of subordinate legislation within the given time of six months. They also did not approach the Committee for extension of time. In view of this, the Committee has recommended that in case the framing of subordinate legislations has been delayed, the concerned Ministry/Department should append 'a delay statement' along with the rules/regulations being laid on the Table of the House to inform Parliament about the exact reasons for such delays.<sup>285</sup>

The Committee while acknowledging the fact that lots of consultation goes into the drafting of specialised rules/regulations, the Committee expressed its hope that the administrative Ministry would complete the process of finalisation of rules within the stipulated time-frame.<sup>286</sup>

- (ix) whether there has been delay in the publication and laying of subordinate legislation.

The Committee has taken serious note of the fact that Ministries frequently cite the late receiving of printed copies of notifications from the Government Press as the reason for delay in laying of

rules/regulations/orders. It has advised that such situation be assessed well before time and arrangements made so that delays do not occur in future on account of delay in printing of notifications.<sup>287</sup> In some cases, the Ministries had cited “administrative reason” as ground for delay in laying the notifications. The Committee has refused to accept late receiving of printed copies of notifications, “administrative reasons” and time taken to complete procedural formalities, etc. as grounds for delay in laying of notifications. The Committee advised the Ministries to take proactive measure to avoid delay due to such reasons in laying of notifications.<sup>288</sup>

The Committee found that in several cases the delayed notifications were being laid with no statement explaining the reason for delay. The Committee felt that by not doing so, Ministries/Departments were evading Parliament’s instructions in this regard. Delayed laying of notifications, in fact, delays members right to get them modified/annulled by moving a motion in the House. The Committee has viewed it very seriously. The Committee, therefore, decided to summon Secretaries of the concerned Ministries for explaining the reason for delay in framing as also in laying of rules/regulations, etc. on the Table of House.<sup>289</sup>

The Committee observed that normally there is long gap between the date of notification of rules/regulations and their laying before Parliament. Since the rules/regulations come into force even before they are laid before Parliament, longer gaps in this regard are likely to have graver implications particularly if such a notification gets modified/annulled by moving a motion in the House of Parliament.<sup>290</sup>

As regards delays due to printing of notifications, the administrative Ministry of Government of India Press submitted before the Committee that Ministries/Departments, may take GSR and SO number from Government of India Press and prepare required number of cyclostyled copies for laying in Parliament without waiting for printed copies to be ready.<sup>291</sup>

- (x) whether for any reason, its form or purport calls for any elucidation;

The Committee has, for instance, made recommendations to modify rules (1) to provide appeal against the orders of subordinate authority;<sup>292</sup> (2) to make provision for penalty for breach of rules, wherever necessary;<sup>293</sup> (3) to provide for opportunity of being heard or making a representation to an aggrieved person;<sup>294</sup> (4) to record reasons for rejecting a matter;<sup>295</sup> (5) to provide for consultation with UPSC in certain matters in the recruitment rules;<sup>296</sup> (6) to provide for representation to a woman in an Advisory Committee for the Mica Mines Labour Welfare Fund;<sup>297</sup> and (7) to rectify defective orders.<sup>298</sup>

- (xi) whether the subordinate legislation framed involves excessive delegation or have some lacunae in drafting;

The Committee while examining the statutes and ordinances framed under the National Institute of Fashion Technology Act, 2006 observed that in some respects the necessary details as envisaged under the Act were not provided for in the subordinate legislations framed. In most cases where statutes/ordinances with full details were to be framed, the same had been converted into discretionary powers and further delegation had been provided. In the Committee's opinion, this further delegation was inappropriate and against the spirit of the Act. The Committee felt that no authority which has been delegated powers by Parliament to frame subordinate legislation can redelegate these powers to any authority or convert them as discretionary powers.<sup>299</sup>

The Committee while examining the AIIMS Regulations, 1999 was of the opinion that ambiguity, if any, in the rules leaves scope for discretionary powers. The Committee felt that if the rules were unambiguous and as per the letter and spirit of the Act, it would help increase transparency and also prevent unnecessary litigation.<sup>300</sup>

In another instance, the Committee expressed its opinion against the idea of providing for substantive powers under the 'Definition Clause' to be exercised subsequently through an administrative order (and not by formal notification) thereby avoiding parliamentary scrutiny by moving statutory motion for modification/annulment. The Ministry of Law and Justice also concurred with the Committee's view in this regard. Thereafter, the Committee directed the Ministry of Law and Justice and Department of Atomic Energy to take prompt action to rectify this infirmity and remove any ambiguity in the Atomic Energy Act, 1962 with regard to framing and laying of statutory orders on the Table of the House.<sup>301</sup>

The Committee also noticed that draft rules/regulations of certain statutory/autonomous organisations were not getting vetted by the Ministry of Law and Justice on the pretext that they have got their own legal officers for the purpose. The Committee recommended that administrative Ministries must ensure that the regulations in respect of such statutory/autonomous organisations have been properly vetted by the Ministry of Law and Justice.<sup>302</sup>

While examining certain regulations framed under the Dentist Act, 1958 the Committee found that these regulations were not in proper format. Numbering of regulations had not been done in orderly and uniform manner making it almost impossible to refer to any regulation with a definite number. The Committee, therefore, recommended that these regulations be redrafted and vetted by the Ministry of Law and Justice.<sup>303</sup>

Considering the scope of its functioning under the provisions contained in rule 209, the Committee found that only such orders as were required to be laid before Parliament and were so laid before the House could be examined by it and fell within the purview of scrutiny of the Committee. The Committee, however, felt that it should have the power to scrutinize not only the rules, regulations, bye-laws and statutory instruments, generally termed as ‘orders’ as were laid on the Table but all instruments of subordinate legislation in whatever form, whether framed in exercise of the powers conferred by the Constitution or delegated by Parliament and irrespective of whether they are laid before the House or not.<sup>304</sup> Accordingly, the Chairman, Rajya Sabha, under rule 266 issued the following directions in this regard:

- (1) The Committee on Subordinate Legislation may examine all ‘Orders’ whether laid before the Council or not, framed in pursuance of the provisions of the Constitution or a statute delegating power to a subordinate authority, to make such orders.
- (2) The Committee may examine provisions of Bills which seek to—
  - (i) delegate powers to make ‘orders’, or
  - (ii) amend earlier Acts delegating such powers, with a view to see whether suitable provisions for the laying of the orders before the Council have been made therein.
- (3) The Committee may examine any other matter relating to an ‘Order’ or any question of subordinate legislation arising therefrom.<sup>305</sup>

After the issue of the above mentioned directions, the Committee examined the All India Services (Laying of Regulations before Parliament) Bill, 1968, introduced in the Rajya Sabha on 21 March 1968, both in its form and content, since the Committee felt that “the Bill was of an unusual character in the sense that it was the first of its kind to be introduced in any legislature in India or in any case in Parliament. The proposed legislation involved a question of great importance from the point of view of delegated legislation and Parliament’s control over it and...the Committee apprehended that the Bill was likely to serve as a precedent whenever it was discovered in future, that a statutory instrument required to be laid, had not been so laid on the Table.”<sup>306</sup> The Committee went into the genesis of the Bill as well as its contents and made certain suggestions in respect thereof.<sup>307</sup>

In practice the Committee scrutinizes all ‘orders’ made by the Government of India or by any other subordinate authority ultimately responsible to the Government and which are published in the Gazette or laid on the Table. The Committee does not scrutinize the ‘orders’ which are made by the State Governments in exercise of the powers conferred on

them by an Act of Parliament (for instance, orders made under the Motor Vehicles Act or labour laws enacted by Parliament). Similarly, the Committee does not scrutinize the rules which are made by the Supreme Court under Article 145, by the High Courts under the Code of Civil Procedure, and the rules made by the President in consultation with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha under Article 98(3) of the Constitution.

On an occasion, the Committee had decided that the rules framed under the regulations for certain Union territories made by the President under article 240 of the Constitution would be subject to its scrutiny. However, as such a regulation was treated at par with an Act of Parliament, the Committee felt that such a regulation could not come under the category of subordinate legislation.<sup>308</sup> Subsequently, when the Committee made a recommendation to give increased representation to women in the Dadra and Nagar Haveli (Administration) Regulations, 1988, promulgated by the President under article 240,<sup>309</sup> the Committee's attention was drawn to the earlier decision of the Committee not to scrutinize the regulations. The Committee, therefore, decided not to pursue the matter in respect of the regulation of 1988.<sup>310</sup>

However, on another occasion the Committee decided that rules framed under the regulations made by the President under article 240 of the Constitution will be subject to its scrutiny and the same will also be laid on the Table of both the Houses.<sup>311</sup>

On an occasion, the Committee had examined the Chief Election Commissioner (Conditions of Service) Rules, 1972, framed by the President under article 324(5) of the Constitution.<sup>312</sup>

The Committee, however, may examine a President's Act made in pursuance of State Legislature (Delegation of Powers) Act enacted by Parliament in respect of a State under the President's Rule,<sup>313</sup> since the Act makes provision for laying of the President's Act before both Houses of Parliament as well as makes provision for its modification or amendment by Parliament by a resolution.<sup>314</sup>

#### *Functioning of the Committee*

The Committee is empowered to determine its own procedure in respect of all matters connected with the consideration of any question of subordinate legislation in the Committee.<sup>315</sup> The Committee has framed a set of rules for its internal working.<sup>316</sup>

During the course of scrutiny of the rules, regulations and orders, if any point in regard to exercise of rule-making power by the subordinate authority arise, clarifications are sought from the concerned Ministry/Department by the Secretariat.

The matter is then placed before the Committee in the form of a memorandum, containing the points referred to the Ministry and its comments thereon, along with the details of the provisions objected to and the grounds of the objections. The Committee considers the memorandum and comes to its own conclusion. If it is considered necessary, the representatives of the Ministry are called to appear before the Committee to be heard in person for seeking further elucidations. The observations and recommendations of the Committee on various points scrutinized by it, find place in its reports.

Another important function being exercised by the Committee is to monitor whether statutory rules, regulations and bye-laws which are required to be framed within six months from the date the Act/Statute came into force, have been framed. The cases where the rules, regulations, have not been framed within the prescribed time, the Secretariat invariably takes up matter with the concerned Ministries ascertaining the reasons for not framing of rules/regulations, etc. and advise them to approach the Committee for extension of time. In the specific cases of inordinate delay in framing of rules/regulation, the representatives of concerned Ministry may be called before the Committee to apprise the grounds for delay and measures being taken for framing as well as laying of rules/regulations expeditiously.

The Committee also examines and scrutinizes representations having a bearing on the rules and regulations and other delegated legislation, which are presented to it by various associations, institutions and private bodies. The Committee hears the representatives of such associations and institutions and seeks clarifications on the points mentioned in the representations and also seeks necessary clarifications from the Ministries/ Departments concerned before making its observations or recommendations.<sup>317</sup>

The Committee issued a press release to elicit views of educational institutions/organisations in regard to the Delhi School Education Rules, 1973 and also heard the views of individuals and institutions thereon.<sup>318</sup> On another occasion, the Committee issued a press release to invite views of various sections of people/agencies engaged in storage, supply, distribution, transportation and sale of motor spirit and high speed diesel on the Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 1998.<sup>319</sup>

Although under the internal rules, the Secretariat examines the rules, prepares memoranda and does other spade work for and on behalf of the Committee, members of the Committee are not precluded from examining the orders themselves and giving suggestions. For this purpose, they are supplied with copies of all orders laid on the Table of the House from time to time.

Whenever any important legal issue arises out of an ‘order’ under examination of the Committee and if the Committee is of the opinion that legal opinion of the Attorney-General<sup>320</sup> and of the Law Ministry is necessary, such opinion is obtained and the Committee then takes a decision after considering the opinion of the Attorney-General or the Law Ministry.

#### *Constitution of sub-Committee*

The Committee may constitute a sub-Committee to study and scrutinize rules, etc.

On an occasion, the Committee had constituted a sub-Committee of seven members of the Committee so that “certain important rules should be deeply studied and scrutinized.”<sup>321</sup>

#### *Study tours*

The Committee may also undertake study tour to any organisation for an on-the-spot study and for holding discussions with officials and representatives of the organisation about various aspects of ‘orders’ under the consideration of the Committee.<sup>322</sup> A study note prepared on the basis of the discussions held during the study visit is sent to the concerned Ministry for their comments.

#### *Report*

The Committee presents its reports to the House from time to time on various ‘orders’ examined by it or any other matter pertaining thereto. If the Committee is of the opinion that any ‘order’ should be annulled wholly or in part, or should be amended in any respect, it reports that opinion and the grounds thereof to the House.<sup>323</sup> If the Committee is of the opinion that any other matter relating to any ‘order’ should be brought to the notice of the House, it does accordingly.<sup>324</sup> It has been decided that the Committee will present a general report in each session on all the orders laid during the previous session, analysing the delays and other deficiencies. The Committee may also select specific orders for detailed study and report thereon.<sup>325</sup>

The report of the Committee is presented to the House by its Chairman or in his absence, by any member of the Committee<sup>326</sup> so authorised.

#### *Implementation of recommendations*

After the report of the Committee is presented to the House, its recommendations are communicated to the Ministries/Departments concerned for taking necessary follow up action thereon. The Ministries either accept the recommendations *in toto* and implement them or they accept and implement them partially and express their difficulties in giving effect to the rest. Sometimes, they do not accept the recommendations at all and forward their view-points/difficulties for the consideration of the Committee.

If the Committee is convinced with the difficulties/views expressed by the Ministry, it either modifies or drops the recommendations. In case the reply of the Ministry is not found satisfactory, the Committee pursues its recommendations. The Committee, from time to time, reports to the House about the implementation of its recommendations.

In order to ensure prompt action by Ministries/Departments on the recommendations made by it, the Committee has laid down the following time-bound procedure and issued directions to be followed by Ministries:

- (1) After a recommendation of the Committee is communicated to the Ministry, it should, within a month of such communication, intimate to the Committee the acceptance or otherwise of the recommendation.
- (2) In cases of accepted recommendations, or assurances and undertakings given to the Committee, the Ministry should implement them within three months from the date of intimation of the recommendations. In case where preliminary procedures like consultations with other bodies, inviting public comments, etc. have to be gone through under a statute or otherwise, this period may be extended by another three months.
- (3) In any case, all accepted recommendations should be implemented within six months.
- (4) In a case where the Ministry is definitely of the view that the period of six months is insufficient for finalisation of action, it should approach the Committee within three months of the date of intimation of the recommendation so that the Committee may consider its difficulties, if any.
- (5) In case the Ministry has some views to offer on recommendations or in case a recommendation could not be implemented for any reason, the Ministry should communicate the same to the Committee within three months.<sup>327</sup>

#### *General recommendations*

Some of the observations and recommendations of the Committee made from time to time which are of a general character and frequently referred to in connection with an ‘order’ are summarised below:

- (a) Time within which rules to be framed

Rules and regulations required to be made under a statute should be made as soon as possible but in no case later than six months from the date on which the statute comes into force.

To avoid delays Ministries could, to start with, frame broad but clear rules; they need not wait to frame all the rules on a particular subject in one go, especially when various authorities/bodies have to be consulted in the matter. Such rules could be amended or new rules added subsequently on the basis of experience. It is recognised that rules should be as perfect as possible, but this perfection should not be at the cost of expedition. The Ministries should also establish the practice that if rules are not framed within the period of six months, the Secretary or the Head of the Department at the Secretary's level should be informed accordingly who in turn should by means of a comprehensive note inform the Minister concerned and obtain his orders thereon. Such a note should invariably refer to the fact whether the particular matter had come within the knowledge or comment of a parliamentary committee or not.<sup>328</sup> In view of the time-limit prescribed above for making rules, the Ministries approach the Committee for grant of extension of time for framing rules and the Committee grants or does not grant the extension asked for after considering all aspects of the matter.<sup>329</sup>

(b) Previous publication of rules

A minimum period of thirty clear days from the date the draft rules are published in the Gazette should be given to the public to send their comments thereon, to ensure that the legal requirement of previous publication of the draft order is fulfilled both in letter and spirit.<sup>330</sup>

(c) Publication of rules in Official Gazette

Like all other laws, the delegated legislation ought not only to be certain but also to be ascertainable. Publication of such legislation is, therefore, a vitally important factor both for the protection of the public affected and for the purpose of keeping the Governmental agency in line with democratic principles.

Therefore, rules framed by Government should be published in the Official Gazette even though the statutes under which these are framed do not specifically provide for such publication.<sup>331</sup>

(d) Laying of rules on the Table

All statutes provide that rules made thereunder should be laid before both Houses of Parliament "as soon as may be" after they are made. There is no authoritative pronouncement to explain the meaning of that expression in connection with the laying of statutory instruments. Ordinarily, it would mean "within a reasonable time". Since laying before Parliament is one of the most effective ways of exercising control on delegated legislation, and there should not be any inordinate or unjustifiable delay in laying 'orders'

before the House, rules and orders were earlier required to be laid before the House (i) within a period of fifteen days after their publication in the Gazette, if the House is in session; and (ii) if the House is not then in session, within fifteen days after the commencement of the ensuing session.<sup>332</sup> Pursuant to the Committee's recommendation, the Ministry of Home Affairs has issued consolidated instructions in the matter *vide* its circular in 1980.<sup>333</sup>

Now every order required to be laid before the Houses should be laid (i) if the House is not in session, during the session, immediately following the date of publication of the order in the official Gazette and (ii) if the House is in session, on the date of publication of the order, during its continuance and in case the time lag between the date of publication and the date of the close of the session is less than 15 clear days, before the expiry of the session immediately following the said session. All the Ministries/ Departments of the Government of India should henceforth comply with this schedule in the matter of laying of the orders issued under various Acts of the Parliament on the Table of the Rajya Sabha.<sup>334</sup>

(e) Laying of rules on the Table in case of a State under the President's Rule.

As regards the rules, orders, notifications, etc. relating to a State Government required to be laid before Parliament during the President's Rule, they may be laid within a period of thirty days of their publication.<sup>335</sup>

(f) Model laying formula

The following formula for laying of statutory rules before both Houses of Parliament is incorporated in all legislations which provide for making of rules by the Central Government:

Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.<sup>336</sup>

(g) Laying of rules under article 309 of the Constitution

The Recruitment and Conditions of Service Rules are made by the Government either under article 309 of the Constitution or under various Acts of Parliament. Whereas the rules made under various Acts of Parliament are laid before Parliament, those made under article 309 are not normally laid. There is no reason why the rules made under article 309 of the Constitution should not be laid before Parliament. There have been some cases where the rules made under article 309 of the Constitution have been laid before Parliament. The Committee, therefore, strongly felt and recommended that in order to maintain a uniform practice all the rules made under delegated authority whether under various Acts of Parliament or under article 309 of the Constitution should be laid before Parliament. In case, however, if Government felt that the non-existence of the laying provisions in article 309 was the reason for not laying the rules made thereunder, the Committee recommended that article 309 of the Constitution be suitably amended, so as to ensure that all the rules made thereunder were laid before Parliament.<sup>337</sup>

(h) Retrospective effect to rules

If in a particular case, the rules have to be given retrospective effect due to any unavoidable circumstances, the Government should take immediate action to clothe it with legal sanction for the purpose; and even when a statute empowers giving of retrospective effect, the rule should be accompanied by an explanatory memorandum setting out therein the reasons and circumstances which necessitated giving of such retrospective effect.<sup>338</sup> Besides, care should be taken to ensure that nobody is adversely affected as a result thereof.<sup>339</sup>

(i) Use of proper and precise language while framing Rules/Regulations

While making rules the executive Ministries as also the Law Ministry should ensure the use of proper and precise language so that not many clarifications have to be issued. In the case of the subordinate legislation, the intention of the makers of the rules should be clear from the language used as there is no other way for the courts and others to know about it, as against in the case of primary legislation where it may be possible to know about the intention of the framers from the statement of 'objects and reasons' appended to the Bills at the introduction stage as also from the debates in the legislatures.<sup>340</sup>

(j) Uploading of Rules/Regulations/Orders on Websites

All the rules, regulations, etc. made under various provisions of Acts are published in the official Gazette and laid on the Table of the House.

The Committee observed that even after these rules and regulations have been laid, it is difficult for Members of Parliament and general public to get access to these notifications. In view of this, the Committee has recommended that such rules, regulations, etc. laid on the Table of the House should be invariably uploaded by the respective Ministries on their websites immediately on the same day they have been laid on the Table of the House.<sup>341</sup>

- (k) Delay in replying to communications sent to Ministries/Departments on behalf of the Committee

On receipt of a reference from the Committee, an acknowledgement should be sent within a week and be brought to the notice of Joint Secretary concerned, who should monitor the same to ensure that no undue delay is caused in sending comments, etc. The Joint Secretary shall be personally responsible for any undue delay in responding to the Committee. The comments should be sent preferably within a month. In case it is not possible to send comments within three months of the receipt of the reference in the Ministry, the Committee may be informed of the reasons for delay and specific request be made to the Committee for grant of extension of time. The comments and the request for extension of time, etc. should be sent by an officer not below the rank of Under Secretary. During the Committee's study visits, an officer not below the rank of Deputy Secretary conversant with the subject-matter of the discussion should be present to assist the Committee.<sup>342</sup>

#### ***Processing of Statutory Motions***

1. To exercise parliamentary control over delegated legislation members have right to give notice for moving motion for amendment/annulment of the subordinate legislation laid on the Table of the House. For this purpose, a Bulletin Part-II indicating the details such as brief subject of rules, regulations, etc., date of laying, number and date of notification is circulated to members for their information on weekly basis during session.

2. Members can give a notice to move such a motion only after the rules, regulations, etc. are laid on the Table and their right to give notice for such a motion extends to one additional session immediately following the session in which the period of 30 days of its laying is completed. While calculating period of laying, inter-session period and all holidays are excluded, and only sittings days are taken into consideration. The Committee in its 5<sup>th</sup> Report recommended to modify the existing laying formula as under:-

- (i) The statutory period of 30 days might be completed in one session or two or more successive sessions; and

- (ii) The right to suggest modifications in the ‘Order’ should extend to one additional session immediately following the session in which the period of 30 days is completed.<sup>343</sup>

Accordingly, the Committee approved the draft revised formula for laying of statutory rules before both Houses of Parliament which the Ministry of Law and Justice proposed to incorporate in all future legislations that provide for making of rules by the Central Government.<sup>344</sup>

The Committee also recommended that the revised formula should be incorporated not only in new legislation but also in the existing Acts as and when Bills to amend them are brought before Parliament. The Ministry should also incorporate the new formula in the Bills pending before Parliament.<sup>345</sup>

The issue of time-frame of moving a motion for annulment/modification again came up for consideration on a Notice for modification moved by Shri K.N. Balagopal, M.P., on the Airport Authority of India (Major Airports) Development Fees Rules, 2011. The matter was referred to the Legislative Department, Ministry of Law and Justice which concurred with the recommendation of the Committee.<sup>346</sup>

The notice of the member indicating his intent to move motion for modification/annulment must be in such form, as the Chairman may consider appropriate and should be addressed to the Secretary-General. Such a notice is, thereafter, processed by the Committee Section (Subordinate Legislation) and if the motion is admitted, it is published in Parliamentary Bulletin Part-II. Subsequently, the Chairman, in consultation with the Leader of the House, fixes the date and time for consideration of the motion by the House, which is then listed in the list of business for that date in the name of the member(s) who had given the notice. Notice(s) on similar issue can be clubbed together.

On the date and time allotted, the concerned member who has given the notice of motion moves the amendments or its annulment and other members may, with the permission of the Chair, also participate. Thereafter, the Minister concerned intervenes giving the viewpoint of the Government after which the mover of the motion has a right to reply. Thereafter, the Chairman puts the motion for decision of the House.

The motion, if adopted by the Rajya Sabha, is transmitted to the Lok Sabha for concurrence. In case of concurrence, it is reported back to the Rajya Sabha and the Ministry is informed of the decision of the Parliament and the rules/regulations stand modified or annulled as the case may be. However, in case the motion is not carried in either House, the rules/regulations remain unaffected.

In case of notifications laid on the Table, even if the parent Act does not contain laying provisions, the member's right to move a motion for modification/annulment cannot be taken away on the plea that the parent Act did not provide for its laying. This position was clarified on a notice submitted by Dr. V. Maitreyan, MP for moving a motion for annulment/modification of the Delimitation of Council Constituencies (Tamil Nadu) Order, 2010 issued under the Tamil Nadu Legislative Council Act, 2010.<sup>347</sup>

In another instance Shri K.N. Balagopal, M.P. through his letter requested the Chairman, Rajya Sabha to take measures to bring the Civil Liability for Nuclear Damage Rules, 2011 under the scrutiny of Parliament. He also mentioned his three attempts to move a motion for amending the said rules, which failed due to one or the other reasons. The member expressed his concern about not being able to move the statutory motion despite his repeated attempts mainly on account of situation beyond his control. He argued that in this kind of a situation, rules, regulations, etc. made by the executive will pass through without parliamentary scrutiny and the member's right to move a motion for amending the rules/regulations/order, etc. will remain on paper only. He, therefore, requested the Chairman, Rajya Sabha to look into this matter to ensure scrutiny of subordinate legislation by Parliament. The Chairman, Rajya Sabha referred the matter to the Committee on Subordinate Legislation to consider the issues raised by Shri K.N. Balagopal, as the notice period for moving a motion was already over at that time. The Committee had already taken up the said rules for detailed examination.<sup>348</sup>

#### **Committee on Government Assurances**

##### *Genesis*

In the course of replies to questions or during other proceedings of the House, Ministers give assurances, promises or undertakings on the floor of the House. A Minister may, for instance, promise to consider a matter, assure that he would enquire into a certain matter or undertake to furnish the information required by the House later. The Committee on Government Assurances has been set up to take stock of a follow-up action of implementation of such assurances, promises or undertakings. The Committee was constituted for the first time in the Rajya Sabha on 1 July 1972, following the recommendation of the Committee on Rules. While recommending the setting up of such a Committee, the Committee on Rules took note of the then existing arrangement with regard to the assurances given by the Ministers on the floor of the Rajya Sabha. The procedure was that the Department of Parliamentary Affairs pursued the matter with, and collected the necessary information from the Ministries/Departments concerned and the same was laid on the Table of the House

by the Minister of Parliamentary Affairs in due course. The first statement of action taken on assurances was laid on the Table of the Rajya Sabha on 5 August 1952.<sup>349</sup> This practice was considered ineffective because it left "the entire thing to the sweet will of the Ministries". Hence the need was felt for the Committee of the Rajya Sabha.<sup>350</sup>

#### *Constitution*

The Committee consists of ten members who are nominated by the Chairman.<sup>351</sup> The Committee holds office until a new Committee is nominated.<sup>352</sup> Casual vacancies in the Committee are filled by nomination by the Chairman.<sup>353</sup> In order to constitute a meeting of the Committee, the quorum is five.<sup>354</sup>

The Chairman of the Committee is appointed by the Chairman of the Rajya Sabha from amongst the members of the Committee.<sup>355</sup> If the Deputy Chairman is a member of the Committee, he is appointed the Committee Chairman.<sup>356</sup> If the Committee Chairman is for any reason unable to act, the Chairman may similarly appoint another Committee Chairman in his place.<sup>357</sup> If the Committee Chairman is absent from any meeting, the Committee chooses another member to act as the Committee Chairman for that meeting.<sup>358</sup> The Committee Chairman cannot vote in the first instance but in the case of an equality of votes on any matter, he has to exercise a casting vote.<sup>359</sup>

#### *Functions*

The functions of the Committee are to scrutinize the assurances, promises, undertakings, etc. given by the Ministers, from time to time, on the floor of the House and to report on (a) the extent to which such assurances, promises, undertakings, etc. have been implemented; and (b) when implemented, whether such implementation has taken place within the minimum time necessary for the purpose.<sup>360</sup>

#### *Powers*

The Committee has the power to require the attendance of persons for the production of papers or records, if such a course is considered necessary for the discharge of its duties.<sup>361</sup> The Government may, however, decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.<sup>362</sup>

In a case the Committee called upon the Government to furnish certain documents. The concerned Minister in a communication to the Committee Chairman requested for granting exemption for non-disclosure of the documents in the interest of the State. The Committee Chairman in his briefing to the Committee observed that

for withholding the information from the Committee, the Government took recourse to the most exceptional provision available under the Rules of Procedure and Conduct of Business in the Rajya Sabha. The Committee, however, felt that the production of such documents would not in any way be prejudicial to the interest of the State and, therefore, requested the Government to review its decision and furnish the information. But the Government after considering the matter again stuck to its original stand of not parting with the papers. The Committee was informed by the Secretary of the concerned Department that "the matter was considered by the Minister of State and the Cabinet." The matter rested, with the Committee observing:

It is thus evident that the decision not to part with the documents was taken at the highest level of the Government. The Committee regret to differ from the Government on the issue of withholding the relevant documents. It is all the more regrettable that the executive privilege has been claimed by the Government on matters which are not sensitive, let alone compromising with the interest of the State.<sup>363</sup>

Subject to the above, a witness may be summoned by an order signed by the Secretary-General and shall produce such documents as are required for the use of the Committee.<sup>364</sup> It is in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.<sup>365</sup>

#### *Functioning of the Committee*

The Committee determines its own procedure in respect of all matters connected with the consideration of any question of assurances, promises, undertakings, etc. in the Committee. The Committee has laid down rules for its internal working.<sup>366</sup> The various procedural stages of the working of the Committee are as follows:

- (a) Culling out of assurances: The Secretariat goes through the verbatim record of the daily proceedings of the House to cull out assurances, etc., if any, on the basis of a standard list of expression, constituting assurances. This list of statement of assurances is checked with the statements which are received from the Ministry of Parliamentary Affairs. As per practice, in view of the Committee's inherent power in treating any statement by a Minister as an assurance, the assurances culled out by the Secretariat which are not included by the Ministry of Parliamentary Affairs are included in the list of assurances and the Ministry of Parliamentary Affairs is informed to include the same in their list.
- (b) Decision as to whether a statement constitutes an assurance: All requests from Ministries/Departments of the Government of

India for dropping of assurances including the request that a particular statement by a Minister may not be treated as an assurance are placed before the Committee for its consideration. The Committee Chairman has been authorised to scrutinize and grant extension of time for implementation of assurances in respect of cases where requests of the Ministries for such extensions from time to time do not exceed the period of one year.

- (c) Examination of statements showing action taken by the Government: The Minister of Parliamentary Affairs lays on the Table of the House, from time to time, statements showing action taken by the Government in implementation of the assurances, etc. These statements are examined with a view to identifying those assurances which do not appear either to have been fully or satisfactorily implemented, or where inordinate delay, considering the nature of the assurances, has occurred in its implementation. All such assurances are placed before the Committee for its consideration.
- (d) Preparation of memoranda: The Secretariat prepares memoranda on the various items to be considered by the Committee. The memoranda state briefly the assurance given by the Minister, action taken by the Government to implement the assurance, the extent to which it has actually been implemented and whether such implementation has taken place within the minimum time necessary for the purpose.
- (e) Sittings, etc. of the Committee: When the date and time of sitting of the Committee have been fixed, notice thereof along with the agenda is circulated to the members of the Committee in advance of the date of the meeting generally at their local address.

If considered necessary, the Committee summons Secretaries of the Ministries concerned to give evidence about the action taken by Government for implementing the assurances. In certain cases, the Committee Chairman may ask the representatives of the Ministries to appear before him to explain the progress made or difficulties being experienced by them in implementing an assurance pertaining to their Ministries.

The Committee also undertakes on-the-spot-study in order to ascertain the facts relating to the implementation of an assurance.

### *Report*

The report of the Committee is presented to the House by the Committee Chairman or, in his absence, by any member of the Committee. Apart from some specific cases of assurances, the report generally contains cases where the Government has taken considerable time in the implementation of assurances, requests for extension of time in implementation of assurances, assurances which do not appear to have been fully or satisfactorily implemented, review of pending assurances, and assurances which have been recommended for dropping. Since the Committee goes into all these aspects, generally no point in respect of an assurance such as, delay, etc. is permitted to be raised on the floor of the House.<sup>367</sup>

On an occasion, when a point of order was sought to be raised regarding delay in laying of an assurance statement on the Table, the Deputy Chairman ruled that the Committee would look into it and there was no need to take the time of the House on that score.<sup>368</sup>

### *Some important recommendations*

(1) In order that assurances, given by Ministers from time to time on the floor of the House are implemented as expeditiously as possible, the Committee has prescribed a time-limit of three months for their implementation by the Government, as any inordinate delay is likely to make some of the assurances, obsolete and by delayed implementation their significance is lost.<sup>369</sup>

(2) As regards treating certain statements as assurances even though they do not conform to the standard list of expressions constituting assurances, the Committee has clarified that the list is not exhaustive but only illustrative and an expression synonymous or analogous to an expression in the list or any other expression having the slightest semblance of an assurance will be treated as such. It is within the exclusive jurisdiction of the Committee to decide whether or not a particular reply constitutes an assurance and the Ministry/Department concerned is not competent to question such a decision.<sup>370</sup>

(3) Ministries should take all care and circumspection while formulating implementation statements so that the entire spectrum of issues involved in the assurance is covered and the main thrust of the information sought for in the question is not side tracked.<sup>371</sup>

In respect of dropping of assurances, the Committee has observed as follows:

- (a) Ministries should not approach the Committee in the matter on the plea that investigations will take considerable time or it is

not practicable to foresee how long it will take to fulfil an assurance.<sup>372</sup>

Many requests are received for dropping on the ground that the CBI has taken over the investigations. In such cases it has been decided that only after charge-sheets have been filed, the Committee will consider dropping an assurance concerning the matter. Till such time the Ministry should keep the Committee informed about the development in the matter.<sup>373</sup>

- (b) Merely informing the Committee that expeditious action is being taken in furtherance of the assurance is not substitute for, and does in no way wipe out, the imperative need for action in concrete terms to fulfil an assurance.<sup>374</sup>
- (c) The omnibus plea of public interest is by itself not a sufficient ground for not giving information needed to liquidate or drop an assurance.<sup>375</sup>
- (d) As regards requests from Ministries/Departments for dropping assurances on the ground that the Minister did not intend to give any assurance and that he simply stated the factual position available at the time of replying to a question, the Committee has observed, "An observation made by a Minister is viewed in a given context by way of giving information and is matched with the intention behind seeking such information. If on scrutiny of a given observation made by a Minister, it is found that information sought for by a member could have been furnished but for its timely non-availability, the intention to make the requisite information available subsequently is evident, such an expression of the intention becomes the concern of the Committee to follow up with the Ministry concerned for its concretisation."<sup>376</sup>
- (e) Ministries/Departments should desist from approaching the Committee for dropping of an assurance on flimsy grounds, more so in respect of those which have already been considered and not agreed to by the Committee. Requests for dropping of assurances should be made only in very genuine cases where it is practically not possible to fulfil them. It should be an exception and not a rule.<sup>377</sup>
- (f) If there are any genuine and practical difficulties in fulfilling the assurance within the stipulated period of three months, Ministries/Departments should make a reference direct to the Committee with a copy to the Ministry of Parliamentary Affairs,

giving specific reasons for the delay and the probable time required for fulfilling the assurance. Ministries/Departments should not approach the Ministry of Parliamentary Affairs directly for seeking extension of time.<sup>378</sup>

- (g) Ministries should scrupulously adhere to the jurisdictions defined by the Constitution of India and should not approach the Committee for dropping the assurance at a late stage on the grounds that the matter relates to a State subject.<sup>379</sup>

*Disagreement between Committee and Government*

In case of final disagreement of a serious nature between the Committee and the Government in respect of fulfilment of an assurance, the Committee may report the matter to the House.

Starred question no. 200 regarding admission to seats reserved for nomination in medical colleges was answered in the Rajya Sabha on 21 July 1982. In reply thereto the Minister concerned had stated that the allocation of seats for the 1982-83 session was yet to be done. The information was furnished in the implementation statement laid on the Table of the Rajya Sabha on 25 February 1983. However, specific information about the names of candidates nominated by Government in 1982, together with names, occupations and designations of their parents, as asked for in part (c) of the question had not been furnished in the implementation statement. The Committee took up the matter with the Government and also heard the Secretary of the Ministry of Health and Family Welfare. The Committee was informed that information was not available with the Government, the Committee reported accordingly.<sup>380</sup> The Committee also referred the matter to the Rules Committee to examine the desirability of making a specific provision in the Rules of Procedure to meet such eventualities. The Rules Committee, however, did not agree to the suggestion. It was of the view that in such cases the Committee might report the matter to the House and the question might thereafter be left to the determination of the House.<sup>381</sup>

*Standard list of expressions constituting assurances*

The Committee has approved the following standard list of expressions which are regarded as constituting an assurance:

The matter is under consideration; I shall look into it; enquiries are being made; I shall inform the hon'ble member; this is primarily the concern of State Government but I shall look into it; I shall write to the State Governments; I assure the House that all suggestions by hon'ble member will be carefully considered; I shall study the conditions on the spot during my tour; I shall consider the matter; I will consider it; I will suggest to the

State Government; we will put the matter in the shape of resolution; I shall see what can be done about it; I will look into the matter before I can say anything; the suggestion will be taken into consideration; the matter will be considered at the conference to be held on...; the matter is still under examination and if anything is required to be done it will certainly be done; the matter will be taken up with the Government of...; I have no information, but I am prepared to look into the matter; efforts are being made to collect the necessary data; the suggestion made will be borne in mind while framing the rules; if the hon'ble member so desires I can issue further instructions; copy of the report when finalised, will be placed in the Parliament Library; I shall supply it to the hon'ble member; I think it can be done; if the hon'ble member's allegation is true, I shall certainly have the matter gone into; we shall have to find that out; I will draw the attention of the...; Government who, I hope, will take adequate steps in this direction; it is a suggestion for action which will be considered; (Discussion on Railway Budget) all the points raised by various members will be considered and the result will be communicated to each member; information is being collected and will be laid on the Table of the Rajya Sabha; I am reviewing the position. Besides, directions by the Chairman, Deputy Chairman or the Vice-Chairman involving action on the part of Ministers and all specific points on which information is asked for and promised also come under the category of assurances, etc.<sup>382</sup>

#### *Computerisation of Assurances*

A client server-based software with web-enabled outputs containing all the relevant details relating to assurances, i.e., assurance no.; question no. and date; subject; extent of assurance implemented; reasons for pendency; extension no. with date; search facility; date of laying of implementation reports and date of dropping of assurances, etc. has been developed to monitor the progress of implementation of assurances, and can be accessed at [http :1/172.16.11.99/cga/main.htm](http://172.16.11.99/cga/main.htm).

#### **Committee on Papers Laid on the Table**

##### *Introduction*

The papers which are required to be laid on the Table of the Rajya Sabha may be broadly classified as:

- (i) Reports required to be laid under the provisions of the Constitution, Acts of Parliament and rules, regulations, resolution/orders or papers laid in pursuance of the directions of the House or the Presiding Officer;

- 
- (ii) Reports of the Government companies established by specific Acts of Parliament or incorporated under the Companies Act, 2013;
  - (iii) Reports of societies or cooperatives financed by the Government, institutions or bodies which are funded by the Government or for which substantial grants are provided by the Government;
  - (iv) Reports of Joint ventures with the State Governments;
  - (v) Reports of Government companies under section 394 and 395 of the Companies Act, 2013;
  - (vi) Any other paper which ought to be laid on the Table of the House.

Considering the huge volume and variety of papers which are laid on the Table almost every sitting and the fact that papers to be laid on the Table are not available to members for scrutiny in advance, it is not always possible for members to exercise vigilance in respect of all the aspects of papers laid on the Table. The House by itself is also not in a position to give a closer scrutiny to each and every document laid on the Table. In that background a need was felt to constitute the Committee.

#### *Genesis*

The Committee on Rules considered a suggestion received from a member of the Rajya Sabha regarding the setting up of a Committee on Papers Laid on the Table. In support of the suggestion, it was mentioned that most of the reports were laid on the Table of the House after a lapse of years and it had become a general practice that the reports of the Commission for Scheduled Castes and Scheduled Tribes and those of the Union Public Service Commission for two to three years were taken up together for discussion.<sup>383</sup> However, before taking a final decision on the suggestion, the Committee on Rules directed that it be referred to the leaders of various parties/groups in the Rajya Sabha for eliciting their views.<sup>384</sup> As agreed to by the leaders, the Committee recommended that the Rajya Sabha should have such a Committee on the pattern of the similar Committee in the Lok Sabha.<sup>385</sup>

The second Report of the Committee on Rules which contained, *inter alia*, the Committee's above mentioned recommendation was presented to the Rajya Sabha on 22 May 1979. For nearly two years, the report was pending in the House; twice, a motion on the report of the Committee was included in the list of business<sup>386</sup> but for one reason or another the report could not be taken up for consideration and adoption.

This specific recommendation of the Committee came up for mention in the House on 22 April 1981, in the context of a point of order raised by a member (Shri Era Sezhiyan, who, incidentally, was the first Chairman of the Committee on Papers Laid on the Table in the Lok Sabha and also later became the first Chairman of the similar Committee of the Rajya Sabha) about an annual report of a Government company. Although it was an annual report it covered a period of six months only and there was a delay in regard to the auditing of the accounts of the company. Another member pointed out a discrepancy that whereas the English version of the report mentioned the period as April to September 1977, the Hindi version of the report gave the period as April to December 1977. A good deal of heat was generated on the issue in the House. It was suggested by Shri B.N. Banerjee, a member and former Secretary-General of the Rajya Sabha that the Committee should be constituted which would then examine these points. The Leader of the House promised to discuss the matter with the leaders of various groups in the Rajya Sabha.<sup>387</sup>

The report of the Committee on Rules was adopted on 24 December 1981 (the last day of the 120<sup>th</sup> Session of the Rajya Sabha) at 9 p.m. before the House was adjourned *sine die* that day. The amendments to rules were brought into force with effect from 15 January 1982.<sup>388</sup> The Committee was first constituted on 3 March 1982.<sup>389</sup>

#### *Constitution*

The Committee<sup>390</sup> consists of ten members who are nominated by the Chairman.<sup>391</sup> The Committee holds office until a new Committee is nominated.<sup>392</sup> Casual vacancies in the Committee are filled by nomination by the Chairman.<sup>393</sup> In order to constitute a meeting of the Committee, the quorum is five.<sup>394</sup>

The Chairman of the Committee is appointed by the Chairman of the Rajya Sabha from amongst the members of the Committee.<sup>395</sup> If the Deputy Chairman is a member of the Committee, he is appointed Chairman of the Committee.<sup>396</sup> If the Committee Chairman is for any reason unable to act, the Chairman may similarly appoint another Committee Chairman in his place.<sup>397</sup> If the Committee Chairman is absent from any meeting, the Committee chooses another member to act as Committee Chairman for that meeting.<sup>398</sup> The Committee Chairman cannot vote in the first instance but in the case of an equality of votes on any matter, he has to exercise a casting vote.<sup>399</sup>

### *Functions*

After a paper is laid before the Rajya Sabha by a Minister, the Committee considers:

- (a) whether there has been compliance with the provisions of the Constitution or the Act of Parliament or any other law, rule or regulation in pursuance of which the paper has been so laid;
- (b) whether there has been any unreasonable delay in laying the paper before the House and if so, (i) whether a statement explaining the reasons for such delay has also been laid before the House along with the paper, and (ii) whether those reasons are satisfactory; and
- (c) whether the paper has been laid before the House both in English and Hindi and if not, (i) whether a statement explaining the reasons for not laying the paper in Hindi has also been laid before the House along with the paper, and (ii) whether those reasons are satisfactory.<sup>400</sup>

The Committee also performs such other functions in respect of the papers laid on the Table as may be assigned to it by the Chairman from time to time.<sup>401</sup>

On 25 February 1987, when a number of notifications relating to customs and excise were being laid on the Table, the question of propriety of issuing them on the eve of the Budget was raised in the House. The Chairman directed the Committee to examine the factual position in respect of them. The Committee, accordingly considered the matter and submitted a (special) report to the Chairman on 9 October 1987. The Chairman gave a ruling on the basis of the Committee's finding on 28 March 1988.<sup>402</sup>

On 23 August 1994, when the Minister of State in the Ministry of Finance was about to lay on the Table of the House the annual report of the State Bank of India for the year 1993-94, objection was taken by several members to the laying of the report mainly on the ground that the Annual General Meeting of the Bank was not properly held and the report, etc. were not duly adopted. The Deputy Chairman, while permitting the report to be laid, referred the matter to the Committee for detailed examination and report.<sup>403</sup>

### *Powers*

The Committee has the power to require the evidence of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties.<sup>404</sup> The Government may, however, decline to produce a document on the ground that its disclosure would be prejudicial

to the safety or interest of the State.<sup>405</sup> Subject to this, a witness may be summoned by an order signed by the Secretary-General and shall produce such documents as are required for the use of the Committee.<sup>406</sup> It shall be the discretion of the Committee to treat any evidence tendered before it as secret or confidential.<sup>407</sup>

#### *Functioning of the Committee*

The Committee determines its own procedure in respect of all matters connected with the examination of papers laid on the Table.<sup>408</sup> The Committee has accordingly made rules in the form of Recommendations/Observations. Every paper laid on the Table and a suggestion from a member relating thereto or a direction of the House or the Chairman is first attended to by the Secretariat and, if necessary, a memorandum is prepared thereon. After its approval by the Committee Chairman, it is placed before the Committee together with facts or comments on the paper wherever obtained from the Ministry concerned and the background notes. The papers are circulated to members along with the notice of a sitting of the Committee. The papers so circulated are treated as confidential.

Many a times the organisations commit delay in laying their papers in the House and do not observe the recommendations of the Committee on various aspects *i.e.* absence of Ministry's comprehensive Review Statement; problem in Hindi/English Translation, placement of Audit objections and its replies in reports, etc. Accordingly, the Committee in such cases decides to undertake local/study visit to interact with the representatives of select Government organisations/institutions along with the representatives of their administrative Ministries/Departments on the above mentioned issues.

#### *Report*

The report of the Committee is presented to the House by the Committee Chairman or, in his absence, by any member of the Committee.<sup>409</sup>

#### *Restrictions on raising matters in the House about papers laid*

A member wishing to raise any of the matters which fall within the purview of the Committee, has to communicate it to the Committee and not raise it in the House.<sup>410</sup>

#### *General recommendations*

The main guidelines laid down by the Committee in respect of laying of papers on the Table of the House are:

Annual reports and audited accounts of the Public Undertakings established by Acts of Parliament or Government companies incorporated

under section 394 and 395 of the Companies Act, 2013 or Societies registered under the Societies Registration Act, 1860 or any other organisation/board for which annual report, etc., are to be placed on the Table of the Houses of Parliament, together with the report/review/comments of the Auditor and the Comptroller and Auditor-General (C & AG) of India wherever necessary and the report/review of the Government, should be laid within nine months of closure of the accounts.<sup>411</sup>

In case of delay, a statement explaining the reasons for delay should also be laid on the Table of the House along with the documents. If there is likely to be a delay in laying a paper within the stipulated period, the administrative Ministry should approach the Committee sufficiently in advance for extension of time by explaining the reasons for doing so. A reference should be made to the extension given by the Committee in the paper when laid.<sup>412</sup>

In an era of computerisation, the Committee has been emphasising on the use of I.T. and presence of adequate skilled manpower to maintain and update accounts in e-networked format so as to keep the accounts on real time basis so that the accounts may be prepared, finalised and laid in time on the Table of Rajya Sabha.

Reports of the public undertakings/companies/societies, etc. that are laid on the Table of the House should include:

(i) Annual report; (ii) audited accounts; (iii) comments by the C&AG whenever given; (iv) review by the C&AG whenever given; (v) reply to the observations of the Auditor and to the comments and review of the C&AG; (vi) report by the Government under section 394 and 395 of the Companies Act, 2013; in respect of the Government companies and also the review of other institutions of which the reports are laid by Government; and (vii) annual budget of Government company/organisation to be presented to Parliament.<sup>413</sup>

Wherever parts of the requirements are fulfilled, there should be a clear indication in the Government's note on the non-fulfilment of the other parts. Later, when the remaining parts are laid on the Table, reference should be made to the particulars of earlier fulfilment of other parts.<sup>414</sup>

All the documents/statements laid on the Table of the House should bear the place, date and the name of the signatory with the designation.<sup>415</sup>

Statements made and information given in the papers laid on the Table have to be consistently accurate, adequate, and comply with the requirements of the provisions of the Constitution/statutes/Acts/rules/regulations/resolutions/orders/directions. The Committee treats a paper as incomplete, if any requirement is not fulfilled.<sup>416</sup>

Ordinarily, both the English and Hindi versions of reports/documents are to be laid on the Table simultaneously. In exceptional cases, however, where it is not possible to lay both the versions simultaneously, or where the Chairman has permitted on a specific request and for special reasons, the Ministry/Department while laying one version has to invariably lay a statement explaining the reasons for not laying the other version and also indicating the time that would be taken for submission of the other version. In such cases, the other version is required to be laid on the Table either in the same session or at the most in the first week of the next session along with a statement inviting attention to the fact of the reports in the first version, English or Hindi, having been laid on the Table earlier on a particular date.<sup>417-418</sup>

The statements giving reasons for delay should contain information, in chronological order setting forth the dates of compilation of accounts, their submission to audit, receipt of draft audit report, replies given to audit queries, receipt of final audit report, translation and printing of accounts and their submission to the Ministry for laying on the Table of the House, so that the House may identify the stages, causes and extent of delay and suggest remedial measures wherever required.<sup>419</sup>

Annual reports and audited accounts together with review statements and delay statements, if any, should be laid on the Table of the House simultaneously so as to present to Parliament, at a given time, a complete and fair picture on the working of the organisation.<sup>420</sup>

In all compelling circumstances of delayed laying, the Committee should be approached invariably by the administrative Ministry for seeking extension of time. However, seeking extension of time should not be made a regular practice and should be avoided as far as possible.<sup>421</sup>

The audit objection should be suitably replied and find a place in the audited accounts.

#### **House Committee**

##### *Constitution*

The House Committee is one of the four Committees which were first constituted in 1952. It was not provided for in the Rule book until 1986. The Rules Committee noted that the House Committee which had been in existence since the very inception of the Rajya Sabha had not been provided for in the main corpus of the rules. The Committee saw no reason as to why the House Committee should not find a place in the rules. Accordingly, the Rules Committee in the fourth Report (1986) recommended the

---

incorporation of a new Chapter relating to the House Committee in the Rules of Procedure.<sup>422</sup>

The Committee<sup>423</sup> consists of ten members who are nominated by the Chairman, Rajya Sabha.<sup>424</sup> The Committee holds office until a new Committee is nominated.<sup>425</sup> Casual vacancies in the Committee are filled by nomination by the Chairman.<sup>426</sup> In order to constitute a meeting of the Committee, the quorum is three.<sup>427</sup>

The Chairman of the Committee is appointed by the Chairman from amongst the members of the Committee.<sup>428</sup> If the Chairman of the Committee is for any reason unable to act, the Chairman may similarly appoint another member of the Committee as its Chairman in his place.<sup>429</sup> If the Committee Chairman is absent from any meeting, the Committee chooses another member to act as Committee Chairman for that meeting.<sup>430</sup> The Committee Chairman cannot vote in the first instance but in the case of an equality of votes, he has to exercise a casting vote.<sup>431</sup>

#### *Functions*

The functions of the Committee are: (1) to deal with all matters relating to residential accommodation of members; (2) to exercise supervision over facilities for accommodation, telephone, food, medical aid and other amenities accorded to members; and (3) to consider and provide such amenities to members as may be deemed necessary from time to time.<sup>432</sup>

#### *Powers*

The Committee has power to require the attendance of persons or the production of papers or records, if such a course is considered necessary for the discharge of its duties.<sup>433</sup> The Government may, however, decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.<sup>434</sup> Subject to this, a witness may be summoned by an order signed by the Secretary-General and shall produce such documents as are required for the use of the Committee.<sup>435</sup> It is in the discretion of the Committee to keep any evidence tendered before it as secret or confidential.<sup>436</sup>

#### *Functioning of the Committee*

The Committee determines its own procedure in respect of all matters connected with accommodation and other amenities to members.<sup>437</sup>

All proposals, suggestions, etc. relating to members' accommodation and amenities are examined by the Secretariat in consultation with the executive authorities, where necessary. When a sufficient number of items

are ready for being placed before the Committee, a date and time for a sitting of the Committee is fixed under the orders of the Committee Chairman. Representatives of the executive authorities concerned are also invited to apprise the Committee of the implications of the proposals under consideration and furnish such information as the Committee might ask for.

The Committee can appoint one or more sub-Committees to examine any specific point relating to the residential accommodation and other amenities to the members.<sup>438</sup>

Proposals, suggestions, etc. which are of common interest to members of both the Houses are considered and decided by the Chairmen of House Committees of both the Houses.

#### *Report*

The report of the Committee is presented to the House by the Committee Chairman or, in his absence, by any member of the Committee.<sup>439</sup> Ordinarily, however, the Committee does not present any report as such regularly. The Committee has, since its inception, presented only eleven reports so far.<sup>440</sup> The minutes of the sittings of the Committee are circulated to members of the Committee and relevant extracts therefrom are forwarded to appropriate authorities for necessary action. The Committee is informed from time to time about the progress made in regard to the implementation of its recommendations or decisions. The Committee's recommendations are generally implemented by the Government. In case the Government is unable to do so, its objections are considered by the Committee which may modify its earlier recommendations, if necessary.

#### **Committee on Rules**

##### *Historical background*

Each House of Parliament may make rules for regulating, subject to the provisions of the Constitution, its procedure and the conduct of its business.<sup>441</sup>

Until such rules were made, the rules of procedure and standing orders in force immediately before the commencement of the Constitution with respect to the legislature of the Dominion of India had effect in relation to Indian Parliament subject to such modifications and adaptations as might be made therein by the Chairman in the case of Rajya Sabha.<sup>442</sup> In other words, when the Rajya Sabha first met on 13 May 1952, it had no rules of procedure of its own. For the purpose of regulating the procedure and conduct of business in the Rajya Sabha (Council of States), the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business, in force immediately before the commencement of the Constitution,

were modified and adapted by the Chairman of the Rajya Sabha in exercise of the powers conferred by clause (2) of article 118 of the Constitution and were published in the Gazette of India Extraordinary dated 16 May 1952.

The Chairman announced in the House that the Rules of Procedure and Conduct of Business in force immediately before the commencement of the Constitution were modified by him and they were assumed as the governing rules for the session.<sup>443</sup>

The Committee on Rules was nominated for the first time on 22 May 1952. It consisted of fourteen members. Suggestions for amendments of the rules as modified and adapted were received and considered by the Committee on Rules. The Committee presented its first Report to the Chairman on 10 July 1952. The Chairman approved the amendments and the amendments were published in the Gazette dated 11 July 1952 (The amendments pertained to questions and provided for half-an-hour discussion).<sup>444</sup>

The second Report of the Committee was presented to the Chairman on 2 August 1952. The amendments recommended by the Committee were approved by the Chairman and published in the Gazette dated 4 August 1952 (The amendments provided for a Business Advisory Committee).<sup>445</sup>

The third Report of the Committee was presented to the Chairman on 14 August 1952. The amendments recommended were published in the Gazette dated 12 September 1952. (The amendments pertained to rules relating to election of Deputy Chairman and Bills).<sup>446</sup>

The fourth Report of the Committee was presented to the Chairman on 24 December 1952. The amendments approved by him were published in the Gazette dated 23 January 1953 (The amendments pertained to the report of the Select Committee on a Bill and consideration of a Money Bill).<sup>447</sup>

The fifth Report of the Committee submitted to the Chairman on 23 January 1954 was about the constitution of Joint Committees of both the Houses. The suggestion of the Committee was referred to the Speaker, Lok Sabha for incorporating similar amendments in the rules of that House. But the matter was not pursued further.<sup>448</sup>

Thus the old rules as modified and adapted by the Chairman, as mentioned above, continued to regulate the conduct and procedure of the Rajya Sabha until they were replaced by new rules in 1964.

#### *New Rules*

On 7 September 1962, Shrimati Violet Alva moved a resolution regarding the setting up of a Committee of the Rajya Sabha to recommend draft Rules

of Procedure under article 118(1) of the Constitution. The Committee consisted of fifteen members mentioned in the resolution. The resolution was adopted on the same day. Subsequently, in exercise of the power conferred by the penultimate paragraph of the resolution, the Chairman added twelve members to the Committee.<sup>449</sup> The report of the Committee was presented to the House on 29 November 1963.

On 27 May 1964, Shri Mulka Govinda Reddy, a member of the Committee moved two motions for the consideration of the report and adoption of the rules as Rules of Procedure and Conduct of Business of the House under article 118(1) of the Constitution. The draft Rules were adopted on 2 June 1964. The Rules were published in the Gazette of India, Extraordinary Part-I, section I, dated 1 July 1964. The Chairman appointed 1 July 1964, as the date on which the rules would come into force.<sup>450</sup>

The rules, *inter alia*, introduced, for the first time, procedures for calling attention and short duration discussion. The Committee on Subordinate Legislation was also constituted and the scope of the Committee on Petitions was enlarged.

#### *Constitution*

The Committee on Rules is nominated by the Chairman and consists of sixteen members including the Chairman and the Deputy Chairman.<sup>451</sup> The Chairman of the Rajya Sabha is the Chairman of the Committee.<sup>452</sup> The Committee holds office until a new Committee is nominated.<sup>453</sup> Casual vacancies in the Committee are filled by the Chairman.<sup>454</sup>

If the Chairman is for any reason unable to act as the Chairman of the Committee, the Deputy Chairman acts as the Chairman of the Committee in his place.<sup>455</sup> If neither of them is for any reason, able to preside over any meeting, the Committee can choose any other member to act as the Chairman of the Committee for that meeting.<sup>456</sup>

In order to constitute a meeting of the Committee, the quorum is seven members.<sup>457</sup> The Chairman of the Committee is not to vote in the first instance but in the case of an equality of votes on any matter he has to exercise a casting vote.<sup>458</sup>

#### *Functions*

The functions of the Committee are to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to the rules that may be deemed necessary.<sup>459</sup> Suggestions for amendments or additions to the rules can be made by any member of the House including a Minister or by the Committee itself or by the Secretariat.<sup>460</sup> The Secretariat also issues circulars to members inviting their suggestions for amendments of rules.<sup>461</sup>

*Functioning of the Committee*

All suggestions and proposals for amendment and addition to the rules are first examined by the Secretariat and placed before the Committee in the form of memoranda stating the implication of each proposal. The memoranda are circulated to members of the Committee.

In connection with the constitution of the seventeen Department-related Parliamentary Standing Committees, a joint sitting of the Committees on Rules of both the Houses was held on 11 March 1993. It was presided over by the Chairman, Rajya Sabha.<sup>462</sup>

*Report*

The report of the Committee containing its recommendations together with the minutes of the sittings of the Committee is presented to the House by the Deputy Chairman or in his absence, by any member of the Committee.<sup>463</sup>

The seventh Report of the Committee was presented by the Deputy Chairman from the Chair.<sup>464</sup>

The Report contains, *inter alia*, the amendments recommended by the Committee and the reasons therefor, as also the suggestions considered but not agreed to by the Committee.

*Consideration of the report*

After the report has been presented, a motion may be moved by the Deputy Chairman or in his absence by a member of the Committee designated by the Chairman that the report of the Committee be taken into consideration.<sup>465</sup> Any member may give notice of amendment to the motion for consideration of the report in such form as may be considered appropriate by the Chairman.<sup>466</sup> After the motion for consideration has been carried, the Deputy Chairman or in his absence, the designated member may move that the House agrees, or agrees with amendment, with the recommendations contained in the report.<sup>467</sup> The amendments to the rules as approved by the House come into force on such date as the Chairman may appoint.<sup>468</sup> Thereafter, the amendment is published in the Gazette and a Bulletin is issued for information of the members.

The new designation ‘Secretary-General’ was, however, substituted for the old designation ‘Secretary’ by an announcement made by the Chairman in the House. The House agreed that relevant rules be amended accordingly.<sup>469</sup>

*Summary of recommendations for amendments to rules*

In July 1972, the rules were amended on the recommendations of the Committee on Rules contained in its first Report presented to the

Rajya Sabha on 10 April 1972. The amendments, *inter alia*, related to the enlargement of the functions of the Committee on Subordinate Legislation so as to empower it to scrutinize rules and regulations framed under the Constitution. A new Committee on Government Assurances was also provided in the rules.<sup>470</sup>

The Committee on Rules in its second Report presented to the Rajya Sabha on 2 May 1979, recommended further amendments in the rules. Some of the amendments recommended were to incorporate the existing practice in regard to the private members' resolutions, asking of short notice questions and procedure regarding resignation of seats in the Rajya Sabha by members. The Committee also recommended that the Rajya Sabha should have a Committee on Papers Laid on the Table and members should be required to give prior intimation to the Chairman and the Minister concerned before they made allegations on the floor of the House.

The Committee in its third Report presented to the Rajya Sabha on 2 December 1981, recommended further amendments in the rules. The important among them were that the Deputy Chairman should be made a member of the Business Advisory Committee and the Committee on Rules; private members' business should be transacted on any other day in the week, if there was no sitting on a Friday; the Business Advisory Committee should allot time for private members' business also as it did in the case of Government business; a private member's resolution could be in a form other than a declaration of opinion by the House; a motion for reference of a question of privilege might be moved by the member raising the question or any other member instead of the Leader of the House, as was the case earlier. The Committee also suggested a set of rules requiring authorities to give intimation to the Chairman, Rajya Sabha, about the arrest, detention, release, etc. of its members.

The second and the third Reports referred to above were agreed to by the Rajya Sabha at its sitting held on 24 December 1981, on a motion moved by a member of the Committee designated by the Chairman. While doing so, the House also modified certain recommendations of the Committee and made further amendments in the rules. The amendments as finally agreed to by the House were brought into force by the Chairman on 15 January 1982.<sup>471</sup>

The Committee in its fourth Report presented to the Rajya Sabha on 19 March 1986, recommended further amendments in the rules. The Committee recommended amendment in sub-rule(3) of rule 25 so that instead of Bills being balloted, the names of persons in-charge of the Bills would be balloted and the members securing the first ten places in the ballot would be asked to choose their Bills. It also provided that no member would be able to take up more than one Bill for consideration in the same session. Suitable amendment in sub-rule (2)

of rule 28 was also recommended by the Committee since it felt that it was not necessary for a Bill, on which the debate had adjourned *sine die*, to undergo the process of ballot and instead such a Bill should have precedence over other Bills. The amendment recommended in respect of sub-rule (4) of rule 29 was of a consequential nature. The Committee also recommended incorporation in the Rules of Procedure of a new Chapter viz., Chapter XVIIC containing new rules 212P to 212W relating to the House Committee which had been in existence since the very inception of the Rajya Sabha but had not been provided for in the main corpus of the rules. The amendments were agreed to by the House on 14 May 1986 and were brought into force by the Chairman on 1 July 1986.<sup>472</sup>

The Committee in its fifth Report presented to the House on 19 August 1992, recommended constitution of three Committees on : (i) Human Resource Development; (ii) Industry; and (iii) Labour. The Rajya Sabha adopted the report on the next day *i.e.*, 20 August 1992.

Subsequently, the General Purposes Committee and the Committee on Rules together considered the whole matter afresh on 23 February 1993. The subject was further discussed at a joint sitting of the Committees on Rules of both the Houses on 11 March 1993. As a result of these discussions, the Committee recommended the setting up of the seventeen Department-related Parliamentary Standing Committees to replace the three Committees set up in each House earlier. The sixth Report of the Committee in this respect was presented to the House on 24 March 1993 and was adopted by the House with some amendments on 29 March 1993. The rules were brought into force on the same day.<sup>473</sup>

The seventh Report of the Committee was presented on 14 February 1995. The recommendations, *inter alia*, related to the increase of notice period for questions from 10 to 15 clear days; certain conditions of admissibility of questions, limit of number of questions (starred and unstarred) and minute of dissent of a member to be appended to a report of a Select Committee. The Report of the Committee was adopted by the House on 30 May 1995, with some amendments. The amendments, as approved by the House, were brought into force with effect from 15 June 1995.<sup>474</sup>

The eighth Report of the Committee was presented to the House on 12 May 2000, and adopted on 15 May 2000. The Committee *inter alia* recommended (i) incorporation of special mention in the corpus of Rules of Procedure and Conduct of Business and suggested new rules 180(A) to 180(E) for the purpose; (ii) amendment in the format of the notice under rule 168 (notice of motion) to make it more specific; (iii) addition of new sub-clauses (ix)–(xviii) in rule 169 with a view to strengthening the criteria for examination/admission of the notices of motion given under rule 168; (iv) amendment in rule 267 relating to

motion for suspension of rules to ensure that the rule is relevant to the list of business for the day before the House; and (v) incorporation of General Purposes Committee in the corpus of Rules of Procedure and Conduct of Business in the Rajya Sabha and suggested new rules 278–285 for the governance of General Purposes Committee. The amendments, as approved by the House, were brought into force with effect from 1 July 2000. The ninth and the tenth Reports of the Committee were presented to the House on 20 July 2004 and adopted on the same day. The ninth Report, *inter alia*, recommended incorporation of the rules relating to the Committee on Ethics in the corpus of the Rules of Procedure and Conduct of Business in the Council of States. In the tenth Report, the Committee, *inter alia*, suggested for the creation of seven new Department-related Parliamentary Standing Committees.

The eleventh Report of the Committee on Rules was presented to the House on 8 December 2006. The Committee recommended<sup>475</sup> (i) amendments in rule 252, increasing the time of ringing of division bell from two minutes to three minutes thirty seconds; and (ii) amendment in rule 241 permitting Ministers also who are not members of Rajya Sabha to make personal explanation under the said rule.

The twelfth Report of the Committee was presented to the House on 14 December 2009. The Committee, *inter alia*, recommended<sup>476</sup> (i) substitution of the existing rule 43 under the new rule. Under the pre-existing rule, a member's name could appear in the starred list for a maximum three times, once as a first questioner and twice by way of clubbing. The Committee observed that the average number of starred questions taken up for oral answer is as low as four to six and the written replies to the remaining starred questions are laid on the Table as if they were unstarred questions. It, therefore, felt that if a member's name is included only once in the starred list it would facilitate more members to ask supplementaries on questions. The new rule 43 thus provided that not more than one starred question by the same member shall be placed on the list of questions for oral answer on any one day; (ii) substitution of sub-rule (3) of rule 54 by a new rule. Under the pre-existing rule, when a member in whose name, a question was listed happened to be absent or did not put the question, the Chairman, at the request of any member may direct that the answer to it be given. As a result on many occasions, when the member was absent or did not put the question, no reply was made by the Minister concerned, depriving other members and the House as a whole from putting supplementaries and receiving further information from Government on an issue of sufficient public importance. The new sub-rule (3) of rule 54 provided that if a question being called, it is not put or the member in whose name it stands is absent, the Chairman shall direct that the answer to it be given. As a result of this new sub-rule, even if a member is absent or chooses not to put the question

which stands in his or her name, the answer to such a question shall be given and other members can ask supplementary questions. As a result of the new rule, rule 55 became infructuous and the Committee recommended its deletion.

Due to frequent disruptions of the Question Hour the Rules Committee proposed to the General Purposes Committee to schedule the Question Hour from 11.00 a.m.-12.00 noon to 12.00 noon-1.00 p.m. Consequently, the first item to be taken up at 11.00 a.m. will be laying of papers, followed by Zero Hour and Special Mentions till 12.00 noon. The General Purposes Committee agreed to these proposals and recommended that the normal time of the sittings of the House should be extended by an hour and accordingly, the House should sit from 11.00 a.m. to 1.00 p.m. and from 2.00 p.m. to 6.00 p.m., except on Fridays when the House will reassemble after lunch at 2.30 p.m. The Rules Committee concurred with the proposals of the General Purposes Committee and accordingly recommended in its thirteenth Report (i) amendment to rule 38 of the Rules of Procedure and Conduct of Business in the Council of States regarding change in the timings of the Question Hour; (ii) amendment in rule 51A regarding reduction in the limit of number of questions for oral answers to 15 from existing 20; and (iii) amendment to rule 180(5) pertaining to time of taking up Calling Attention which is consequent to the amendment to rule 38. The thirteenth Report of the Committee was presented to the House on 25 November 2014 and adopted on the 26 November 2014.<sup>477</sup>

#### **General Purposes Committee**

The General Purposes Committee was earlier not provided for in the Rules of Procedure of the Rajya Sabha though it used to be constituted every year by the Chairman to consider and advise on such matters concerning the affairs of the House as may be referred to it by the Chairman from time to time. Pursuant to the recommendation made by the Committee on Rules of Rajya Sabha as contained in its eighth Report, the General Purposes Committee was provided in the corpus of the rules with effect from 1 July 2000 with the addition of a new chapter XXIII. The Committee consists of the Chairman, the Deputy Chairman, members on the panel of Vice-Chairmen, Chairmen of all Parliamentary Standing Committees, leaders of recognised parties and groups in the Rajya Sabha and such other members as may be nominated by the Chairman. Thus, no fixed number has been laid down for the membership of the General Purposes Committee. The Chairman is the *ex officio* Chairman of the Committee.

The first Committee was constituted on 22 May 1957 and had sixteen members on it; the Committee constituted on 12 August 1976, consisted of twenty-one members; the one constituted on 7 August 1995 and 31 July 1996, had twenty-five and twenty-one members respectively. The Committee is being constituted since 1957, except on few occasions when it was not reconstituted unlike other Committees.

The functions of the Committee are to consider and advise the Chairman on matters concerning the affairs of the House or members which do not appropriately fall within the purview of any other Parliamentary Committee.

On an occasion, the Committee did not consider a matter regarding additional housing accommodation for members, rental for air-conditioners, etc. as the matter fell within the purview of the House Committee.<sup>478</sup>

The Committee has so far considered a variety of subjects of procedural, ceremonial and functional nature. In view of the Committee's composition, the Committee has wider representational character than any other Parliamentary Committee and hence important matters of general interest are always placed before this Committee. Some of the important issues considered by the Committee are:

- (a) procedural: adjournment of the House on the death of sitting members, etc;<sup>479</sup> not to hold a sitting on May Day;<sup>480</sup> guidelines for visits of Parliamentary Committees outside Delhi;<sup>481</sup> non-response to the Supreme Court notice in Special Reference No. 1 of 1974 (regarding Presidential election);<sup>482</sup> procedure of balloting of questions;<sup>483</sup> calling attention procedure;<sup>484</sup> approval of the draft of Members of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985;<sup>485</sup> constitution of Department-related Parliamentary Standing Committees;<sup>486</sup> oath/affirmation to newly elected members of the Rajya Sabha in the Chamber of the Chairman;<sup>487</sup> question procedure.<sup>488</sup>
- (b) ceremonial: contribution of members towards Bangladesh Relief Fund;<sup>489</sup> celebration of the twenty-fifth anniversary and 100<sup>th</sup> Session of the Rajya Sabha in May 1977;<sup>490</sup> celebration of the birth centenary of Dr. S. Radhakrishnan, the first Chairman of the Rajya Sabha;<sup>491</sup> commencement/conclusion of a session with National Anthem/National Song;<sup>492</sup> Celebration of the 200<sup>th</sup> Session of the Rajya Sabha in December 2003.<sup>493</sup>
- (c) functional or facilities: sound system in the Rajya Sabha Chamber;<sup>494</sup> installation of metal detectors at the entrance of Rajya Sabha public gallery;<sup>495</sup> issue of the same day passes for members' guests/family members;<sup>496</sup> printing of Rajya Sabha debates in Hindi;<sup>497</sup> frisking of female visitors;<sup>498</sup> distribution of brief-cases to members;<sup>499</sup> renovation of seats in the Chamber;<sup>500</sup> Rajya Sabha Who's Who—pattern and printing;<sup>501</sup> publication of a consolidated Who's Who;<sup>502</sup> installation of CCTV in the Rajya Sabha Sector;<sup>503</sup> introduction of five-day week and fixation

of working hours in the Secretariat from 10.00 a.m. to 6.00 p.m.;<sup>504</sup> blood group identification of members;<sup>505</sup> replacement of AVR/SI/master clock/sound systems in the Chamber;<sup>506</sup> additional telephone facilities in the offices of Chairmen of Parliamentary Committees;<sup>507</sup> improvement of refreshment service;<sup>508</sup> improvement in the cooling arrangement in the Central Hall;<sup>509</sup> insignia for members;<sup>510</sup> transport and medical facilities for members;<sup>511</sup> strengthening of research facilities in the Secretariat;<sup>512</sup> supply of computers to members and organising computer training programmes for them;<sup>513</sup> televising the proceedings of Parliament;<sup>514</sup> common fax facilities for members;<sup>515</sup> receipt of notices of questions through E-mail, format of the Who's Who of Rajya Sabha, security measures in the precincts of Parliament House, procedure regarding evidence of officials of the State Governments before the Parliamentary Committees;<sup>516</sup> changing of the size of the Rajya Sabha debates from royal octavo (royal 8VO)to A-4 or A-5 size, making specific provision in the Rules of Procedure for special mentions, amendment of rules relating to motions.<sup>517</sup> The Committee may appoint sub-committees for the detailed consideration of certain matters.

The Committee constituted a Committee of experts to examine sound system in the Rajya Sabha.<sup>518</sup> The Committee authorised the Chairman to appoint a sub-committee to draw up a detailed programme to celebrate the twenty-fifth anniversary and 100<sup>th</sup> Session of the Rajya Sabha in May 1977.<sup>519</sup>

The Chairman nominated members to join with the sub-committee of Lok Sabha General Purposes Committee regarding production of documentary film on Parliament.<sup>520</sup> The Committee appointed a sub-committee to work out details of the programme of the birth centenary of Dr. S. Radhakrishnan on 5 September 1988.<sup>521</sup>

The Committee desired that a sub-committee comprising members of the Committee on Rules of the Rajya Sabha and the Lok Sabha be constituted to consider the matter regarding constitution of standing committees of Parliament as recommended by the Committee on Rules of the Lok Sabha in its draft second Report.<sup>522</sup>

A Committee of experts from the Departments of Science and Technology, Electronics and CPWD was directed to technically evaluate and identify suitable AVR/SI/sound systems for the Rajya Sabha.<sup>523</sup>

The Committee authorised the Chairman to constitute a sub-committee to look into the question of jurisdictional overlap between Parliamentary Committees and the Chairman nominated a five member sub-committee for

the purpose,<sup>524</sup> which met several times and considered the issue. Subsequently, a Joint Parliamentary Committee to look into this matter was set up by the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha,<sup>525</sup> and members of this sub-committee were nominated as members of the Joint Committee.

In pursuance of the decision taken by the General Purposes Committee of Rajya Sabha in its sitting held on 4 March 2008, Chairman has constituted a small sub-committee to review all aspects relating to guidelines concerning study tours of parliamentary committees and submit its report to the main Committee.<sup>526</sup> The sub-committee has submitted its report to the Hon'ble Chairman on 16 December 2008,<sup>527</sup> which was considered and approved by the main Committee in its meeting held on 18 December 2008.<sup>528</sup>

Earlier the Committee did not present any report to the House. However, with the Committee being provided in the corpus of rules w.e.f. 1 July 2000, there is a provision under rule 283 for the Committee to make a special report if it thinks fit on any matter that arises or comes to light in the course of its work which it may consider necessary to bring to the notice of the Chairman or the House, notwithstanding that such matter is not directly connected with, or does not fall within or is not incidental to, its terms of reference. The minutes of the meeting of Committee incorporating the decisions of the Committee are, however, kept and they are circulated to the members of the Committee. Extracts therefrom are also forwarded to authorities concerned for necessary action.

#### **Committee on Provision of Computer Equipment to Members of Rajya Sabha**

This Committee was constituted by the Chairman, Rajya Sabha on 18 March 1997. It is an eight member Committee which decides parameters with regard to application of information technology in the functioning of Rajya Sabha, formulates norms for provision of computer hardware and software to be made available to members from time to time along with suitable training to enable members to proficiently use IT tools, and takes steps to ensure increasing use of electronic mode of information dissemination in the Rajya Sabha. To make available various tools of information technology to the members of Rajya Sabha, this Committee has formulated the "Provision of Computer Equipment (Members and Officers) Rules, 2008" with the approval of the Chairman Rajya Sabha which came into force on 1 April 2008. These rules have a Scheme of Financial Entitlement using which members can procure computer equipment of their choice to aid their parliamentary work. The Deputy Chairman of Rajya Sabha or a senior member of the House is the Chairman of the Committee.

### **Committee on Member of Parliament Local Area Development Scheme**

Since a large number of complaints were being received from members relating to non-implementation or delay in implementation of various items of work under the Member of Parliament Local Area Development (MPLAD) Scheme, it was felt that there should be some effective monitoring mechanism so that proper and quick implementation of projects under the MPLAD Scheme could be achieved. It was also felt that there should be a close coordination between district officials and Members of Parliament and there should be a separate parliamentary committee under the Chairmanship of Deputy Chairman, Rajya Sabha for monitoring the problems pertaining to the MPLAD Scheme. With this objective, a ten member committee was constituted in the Rajya Sabha on 5 September 1998. The Deputy Chairman of Rajya Sabha is the Chairman of this Committee. At present, the Committee on MPLADS, Rajya Sabha is a thirteen member committee comprising members from different parties/groups.

Under the Scheme, each Member of Parliament can recommend works of developmental nature to the tune of Rupees five crore per annum to be taken up in his/her constituency. An elected member of Rajya Sabha can recommend works in one or more districts to be executed by the concerned district administration in the State from where he/she has been elected. The nominated members of Rajya Sabha can recommend works, anywhere in the country.

The Committee on MPLADS during the period of its existence has upto now presented the following reports:

Year	No. of meetings held	No. of reports presented
1998	2	-
1999	3	First report presented on 23 December 1999
2000	6	-
2001	7	Second report presented on 11 December 2001 Third report presented on 18 December 2001
2002	8	Fourth report presented on 17 December 2002
2003	4	-
2004	7	Fifth report presented on 7 December 2004
2005	8	-

Year	No. of meetings held	No. of reports presented
2006	4	-
2007	3	-
2008	5	Sixth report presented on 23 October 2008
2009	3	-
2010	4	-
2011	6	-
2012	4	-
2013	2	Seventh report presented on 12 March 2013
2014	2	-
2015	2	-

### III. Select/Joint Committees on Bills

On a motion moved in and adopted by the House, Bills are from time to time referred to Select Committees, the members on which are specifically named in the motion. Bills may likewise be referred to Joint Committees, with the concurrence of the Lok Sabha, which have the members of both the Houses serving on them. Such Select/Joint Committees are *ad hoc* Committees since they are appointed for consideration of particular Bills referred to them and become *functus officio*, after submission of reports to the House(s).

Such Committees are appointed at the first stage of the second reading of a Bill in the House. At this stage, the member in-charge of the Bill may himself move that the Bill be referred to a Select Committee of the House or to a Joint Committee of the Houses with the concurrence of the Lok Sabha. If, however, the member in-charge of the Bill moves a motion that the Bill be taken into consideration, any other member may move an amendment for the reference of the Bill to a Select or Joint Committee.<sup>529</sup> On the adoption of the motion or amendment, as the case may be, the Bill stands referred to a Select Committee, and in case the Bill is to be referred to a Joint Committee, on the adoption of a concurrence motion and appointment of members to the Committee, by the other House.

#### Constitution

The members of the Select Committee on a Bill are appointed by the House when the motion that the Bill be referred to a Select Committee is

made.<sup>530</sup> The motion for reference of a Bill to the Joint Committee gives the number and names of members of the Rajya Sabha to be appointed to the Committee and also the number of members from the Lok Sabha to be appointed by that House. The proportion of members of a Joint Committee from the Rajya Sabha and the Lok Sabha is 1:2. The actual number of membership of the Select/Joint Committee is not fixed; it varies from Committee to Committee.

No member is appointed to a Select Committee if he is not willing to serve on the Committee. The mover has to ascertain whether the member proposed by him is willing to serve on the Committee.<sup>531</sup>

The member or Minister in-charge of the Bill is generally included as a member of the Committee. The composition of the Select/Joint Committee reflects the strength of various parties/groups in the House(s).

When the motion for concurrence to refer the Constitution (Eightieth Amendment) Bill to a Joint Committee was moved, objection was taken to the exclusion of members of certain parties. The motion had to be postponed.<sup>532</sup>

As a general rule only one Bill is referred to a Select/Joint Committee, but in case there are two Bills dealing with a similar subject-matter, they may be referred to the same Select/Joint Committee by means of a single motion or two separate motions.

Two Ministers moved separate motions for concurrence to refer the Representation of the People (Amendment) Bill, 1993, and the Constitution (Eightieth Amendment) Bill, 1993 to Joint Committees with common names of members on both. It was clarified by the Vice-Chairman that it was one Committee which would work on both the Bills. The Law Minister agreed with this view.<sup>533</sup>

#### *Motion regarding a Joint Committee*

There are no rules about the procedure to be followed by a Joint Committee. A self-contained motion is, therefore, moved in the House for the purpose. The motion lays down the quorum for a sitting of the Joint Committee, the rules of procedure which would apply to the Committee, the time by which the Committee is to present its report and finally a request to the other House to agree to join in the Committee and to communicate the names of its members who have been appointed to serve on the Committee. Usually, the rules relating to the Select Committee on Bills of the House in which the motion is initiated apply to the Joint Committee. The motion, on adoption, is transmitted to the other House for concurrence and nominating members to serve on the Committee.

As already stated,<sup>534</sup> on the dissolution of the Lok Sabha, a Joint Committee stands dissolved. The Joint Committee has to be reconstituted afresh in case the Bill is referred to it.

The House which initiates a motion of constitution of a Joint Committee is in-charge of the Committee and the Committee functions under the direction and control of the Presiding Officer of that House.<sup>535</sup> The extension of time for presenting the report of the Committee, if required, has to be sought from that House. When such extension is granted, the other House is informed by means of a formal message.

However, while the motions for the appointment of Joint Committee of the Houses on the Copyright (Second Amendment) Bill, 1992 and the Insolvency and Bankruptcy Code, 2015 were moved and adopted by the Lok Sabha, the Hon'ble Speaker, Lok Sabha, appointed Shri Syed Sibtey Razi, Member, Rajya Sabha and Shri Bhupender Yadav, Member, Rajya Sabha respectively as the Chairman of these Committees.<sup>536</sup>

Similarly, the motion requesting grant of extension of time for presentation of the report of the Joint Committee on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Bill, 2015 could not be moved by the Chairperson of the Committee on account of the sitting of the Lok Sabha on 27.11.2015 being dedicated exclusively for discussion on Commitment to India's Constitution. The Hon'ble Speaker, Lok Sabha, made an announcement in the House that she has, on behalf of the House, granted extension of time up to the last day of the Winter Session, 2015. A message from Lok Sabha in this regard was reported by the Secretary-General to the House.

#### *Casual vacancies*

Casual vacancies in a Select Committee are filled by appointment on a motion made in the House.<sup>537</sup> Motion for filling up casual vacancies will be given by the Minister concerned and the same will be processed and admitted by the Secretariat. The admitted motion will be sent by the Secretariat to the Ministry of Parliamentary Affairs requesting them to have the item included in the list of business. The Ministry then forwards the item to the Table Office on a desired date. The Minister concerned will move the motion in the House on the date for which it has been listed, for being adopted by the House. In the case of a Joint Committee, initiated by the Rajya Sabha, if the vacancy is in the membership of the Rajya Sabha, a motion setting forth the name of the member proposed to fill the vacancy is moved and after its adoption by the House, the Lok Sabha Secretariat is informed of the fact by a letter. If the vacancy is in the membership of the Lok Sabha, the vacancy is filled by that House on a recommendation made

to that effect in a motion adopted by the Rajya Sabha. The motion after adoption in the Rajya Sabha is transmitted to the Lok Sabha for concurrence and nomination of a member of that House to fill the vacancy. On receipt of a message from the Lok Sabha concurring in the motion, it is reported to the Rajya Sabha. The same procedure is followed in the reverse order in the case of a Joint Committee originating in the Lok Sabha.

#### *Chairman of Committee*

The Chairman of the Committee is appointed by the Chairman of the Rajya Sabha from amongst the members of the Committee. If the Deputy Chairman is a member of the Committee, he is appointed Chairman of the Committee.<sup>538</sup> If the Committee Chairman is for any reason unable to act, the Chairman may similarly appoint another Committee Chairman in his place.<sup>539</sup> If the Committee Chairman is absent from any meeting, the Committee can choose another member to act, as Chairman of the Committee for that meeting.<sup>540</sup> In case of equality of votes on any matter, the Chairman of the Committee or other person presiding has to exercise a second or casting vote.<sup>541</sup>

#### *Quorum*

In order to constitute a meeting of the Committee, the quorum is one-third of the total number of members of the Committee.<sup>542</sup> If at the time fixed for any meeting of the Committee or if at any time during any such meeting, there is no quorum, the Chairman of the Committee has to either suspend the meeting until there is quorum or adjourn the meeting to some future day.<sup>543</sup> If the Committee has been adjourned for want of quorum on two successive dates fixed for the meeting of the Committee, its Chairman has to report the fact to the House.<sup>544</sup>

The Chairman of the Joint Committee on the Shipping Agents (Licensing) Bill, 1989, (Shri B.A. Masodkar) made a report to the House on 28 July 1989, that a series of meetings of the Committee had to be adjourned for lack of quorum. It was the first time in the Rajya Sabha that such a report was made under rule 74(3) of the rules.<sup>545</sup>

#### *Discharge of absent members*

If a member is absent from two or more consecutive meetings of the Committee, without the permission of the Chairman of the Committee, a motion may be moved in the House for the discharge of such member from the Committee.<sup>546</sup> This is only an enabling provision and has not been used so far.

*Members other than members of Committee may be present at a meeting*

Members who are not members of a Select Committee may be present during the deliberations of the Committee but they cannot address the Committee or sit in the body of the Committee.<sup>547</sup> However, a Minister may, with the permission of the Chairman of the Committee, address the Committee of which he may not be a member.<sup>548</sup>

*Power to appoint sub-Committees*

The Committee may appoint a sub-Committee or study group to examine any special points connected with the Bill. The order of reference to such sub-Committee clearly states the point or points for investigation. The report of the sub-Committee is considered by the whole Committee.<sup>549</sup>

The Joint Committee on the Hindu Succession Bill, 1954, appointed a sub-Committee to consider an amendment granting a share to a female relative in respect of coparcenary property.<sup>550</sup>

The Joint Committee on the Prevention of Water Pollution Bill, 1969 appointed three Study Groups;<sup>551</sup> the Joint Committee on Hire-Purchase Bill, 1968, appointed three sub-Committees to consider the interests of hirers;<sup>552</sup> the Joint Committee on the Plantations Labour (Amendment) Bill, 1973, appointed three Study Groups.<sup>553</sup>

*Functions*

The function of a Select/Joint Committee on a Bill is to go through the text of the Bill, clause by clause, in order to see that the Bill reflects clearly the intention behind the measure and the object proposed to be achieved is adequately brought out.

The Committee may, for this purpose, invite memoranda from or take oral evidence of experts or interested persons and organisations. The Committee may also ask the Government officials to explain the policy behind the various provisions of the Bill and to supply to it such information and background material as may be required by it. After hearing the evidence, the Committee considers the various provisions of the Bill and formulates its conclusions and may amend the clauses, etc. of the Bill to bring about the intention clearly. At the sittings of the Committee, the Minister concerned and the officials of the Ministry as well as the Legislative Counsel (Draftsman) are also present to assist the Committee in its deliberations.

The Committee may also visit organisations and institutions, etc. for on-the-spot study of a matter connected with the Bill. For instance, the Joint Committee on the Prevention of Food Adulteration (Amendment) Bill, 1974, visited institutions to study the working of laboratories.<sup>554</sup>

### *Meetings*

The meetings of the Committee are held on such days as its Chairman may fix.<sup>555</sup> If, however, the Chairman of the Committee is not readily available, the Secretary-General may, in consultation with the Minister whose Ministry is concerned with the Bill, fix the date and time of a meeting.<sup>556</sup>

A Committee may hold its meeting whilst the House is sitting. If, however, a division is called in the House, the Chairman of the Committee suspends the proceedings in the Committee for such time as will enable members to vote in the division.<sup>557</sup>

The sitting of the Committee is held within the precincts of the Parliament House.<sup>558</sup> If, however, in any case it is considered necessary to hold such a sitting outside the precincts of the Parliament House, the matter is referred to the Chairman whose decision (to permit the Committee to sit outside Parliament House or otherwise) is final.<sup>559</sup> There have been many instances when Committees have been permitted to hold sittings outside Delhi. There are also instances when the Chairman of Rajya Sabha has not acceded to Committee's request to hold its sittings<sup>560</sup> or of any of its study groups or sub-Committees outside Delhi.<sup>561</sup>

### *Evidence*

Generally, at the first sitting, the Committee decides whether it would take evidence on the Bill from the various interests affected by the measure and whether expert evidence would be necessary or useful. In case the Committee decides to take evidence, usually a press note is issued inviting memoranda on the Bill from individuals, associations or organisations and a date is fixed for the receipt of such memoranda.

The Select Committee on the Indian Penal Code (Amendment) Bill, 1963, however, decided not to issue a press communique in view of the fact that the Bill had already been circulated for eliciting public opinion thereon.<sup>562</sup> The Committee heard expert witnesses.

In some cases, the Committees have also issued questionnaires on the various provisions of the Bills. For instance, the Joint Committee on the Indian Penal Code (Amendment) Bill, 1972, and the Central and other Societies (Regulation) Bill, 1974, issued questionnaires also.<sup>563</sup>

The Chairman of the Committee is authorised to decide, after going through the memoranda, as to who should be invited to appear before the Committee to tender oral evidence. For this purpose, only those associations or individuals are called who have made a specific request for the purpose. The Chairman of the Committee also considers the suggestions of members made in this behalf.

A Select/Joint Committee may call any member who is not a member of the Committee to give evidence before it.

There have been many instances when Members of Parliament have been invited by Select/Joint Committees on Bills for tendering evidence either in their representative capacities or as experts on matters being considered by the Committees. For instance, Shri M.C. Setalvad, Shri A.N. Mulla and Shri G.S. Pathak, M.Ps. appeared before the Select Committee of the Rajya Sabha on the Indian Penal Code (Amendment) Bill, 1963;<sup>564</sup> Shri Setalvad also appeared before the Joint Committee on the Code of Civil Procedure (Amendment) Bill, 1968; <sup>565</sup> Shri Indradeep Sinha, M.P. appeared before the Joint Committee on the Indian Penal Code (Amendment) Bill, 1972, as a representative of the All India Kisan Sabha,<sup>566</sup> Shri S.N. Mishra, M.P. appeared before the Joint Committee on the Prevention of Food Adulteration (Amendment) Bill, 1974, as a representative of the Kirana Committee, Delhi.<sup>567</sup>

In a case, a member of the Joint Committee on the Prevention of Water Pollution Bill, 1969, appeared before the Committee as a witness.<sup>568</sup> Again, before the Joint Committee on the Prevention of Water Pollution Bill, 1969, the Minister of State in the Ministry of Information and Broadcasting (Shri I.K. Gujral) appeared as a witness.<sup>569</sup>

The Committee has power to require the attendance of persons or the production of papers or records if such a course is considered necessary for the discharge of its duties.<sup>570</sup> If any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question is to be referred to the Chairman whose decision is final.<sup>571</sup>

The Joint Committee on the Monopolies and Restrictive Trade Practices (MRTP) Bill, 1963, had desired information from the Ministry of Finance regarding the names of private companies to which loans had been advanced by the State Bank of India in which the Directors of the Bank were interested. The Ministry of Finance took the plea that the information could not be supplied due to prohibition imposed on divulgence of such information under section 44(1) of the State Bank of India Act, 1955. Some members felt that a Parliamentary Committee could not be deprived of such information in spite of statutory prohibition. Some other members, however, were of the view that the Ministry of Finance was justified in its plea. Because of the difference of opinion the matter was ultimately referred to the Chairman for direction. The Chairman ruled:

...in view of the express provision of section 44(1) of the State Bank of India Act, 1955, the State Bank of India could not be asked to divulge to the Joint Committee the names of individual companies in which the Directors of the Bank were interested together with loans granted to them and the rate of the interest charged therefor.

The Chairman further said that the provisions of section 44 of the aforesaid Act applied to all and no exception in this regard could be made in favour of Parliament or its Committees and that if Parliament thought in its wisdom that Parliament or its Committees should be exempted from the provisions of section 44(1) of the State Bank of India Act, 1955, an amendment of the said section would be necessary. In the circumstances, the Chairman decided that he was not in a position to give direction to the Government to furnish to the Joint Committee, the names of private companies to which loans had been sanctioned by the State Bank of India, in which the Directors were interested together with the particulars thereof.<sup>572</sup>

Government may, however, decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.<sup>573</sup> Subject to this, a witness may be summoned by an order signed by the Secretary-General and shall produce such documents as are required for use of the Committee.<sup>574</sup>

The Committee may hear expert evidence and representatives of special interest affected by the measure before it.<sup>575</sup>

There are instances of the Joint Committees initiated by the Rajya Sabha which have heard expert witnesses from foreign countries also.

For instance, the Joint Committee on the Copyright Bill, 1955 heard the representatives of the International Confederation of Authors and Composers, Paris, the Performing Right Society, London and the British Joint Copyright Council, London. One of the representatives had this to say about the hearing given to them: "When I make my report to the authors' societies of thirty countries, I shall make it a point to mention this very patient and long hearing which you have given me."<sup>576</sup>

Again, the Joint Committee on the Prevention of Water Pollution Bill, 1969, heard nine foreign experts on environment and public health.<sup>577</sup> In the words of one of the foreign scientists who appeared before the Committee, "It is a rare privilege for a citizen of our country, 10,000 miles away, to have a chance to address the Parliament of India, the greatest democracy on earth."<sup>578</sup>

No document submitted to the Committee can be withdrawn or altered without the knowledge and approval of the Committee.<sup>579</sup>

Before a witness is called for examination, the Committee decides the mode of procedure and the nature of questions that may be put to the witness.<sup>580</sup> A witness is, at the outset, permitted to make his submissions orally before the Committee to supplement his memorandum already submitted to the Committee. In case the witness has not furnished a

memorandum, he may be permitted to express briefly his views on the subject-matter before the Committee. Thereafter, the Chairman and members put questions to the witness as they may consider necessary with reference to the subject-matter of the Bill or any connected subject thereto.<sup>581</sup> A witness may be asked to place before the Committee any other relevant points that have not been covered and which a witness thinks are essential to be placed before the Committee.<sup>582</sup>

A verbatim record of the proceedings of the Committee is kept whenever a witness is summoned to give evidence.<sup>583</sup> The evidence tendered before the Committee is made available to the members of the Committee.<sup>584</sup> A copy of the evidence is sent to the witness for confirmation and he is advised to keep the same confidential until the same is laid on the Table.

The Committee decides whether the record of evidence given before it is to be laid on the Table wholly or in part or in a summary form<sup>585</sup> and whether the written memoranda submitted to the Committee should be printed as appendices to the evidence or laid on the Table or placed in the Library for reference by the members.

The Joint Committee on the Plantations Labour (Amendment) Bill, 1973, decided that the whole of the evidence tendered before the Committee should be laid on the Table. However, in view of economy, the evidence need not be printed, and two sets thereof might be kept in the Parliament Library, after the evidence was laid on the Table.<sup>586</sup>

Similar decisions were taken by the Joint Committees on the Prevention of Food Adulteration (Amendment) Bill, 1974,<sup>587</sup> and the Central and other Societies (Regulation) Bill, 1974.<sup>588</sup>

The Joint Committee on the Mental Health Bill, 1981, decided to lay on the Table the entire evidence tendered before it and to place in the Parliament Library a set of memoranda received after the report was presented, for reference by Members of Parliament.<sup>589</sup>

On an occasion, in the Joint Committee on the Prevention of Water Pollution Bill, 1969, a member wanted to bring to the notice of the Committee a question of likely breach of privilege in connection with a document or documents supplied to the Committee. The Committee recorded the evidence of the Member-Secretary of a Board as to how he came into possession of a cyclostyled copy of a report submitted to the Committee by the Chairman of that Board and circulated to the members by the Secretariat. This evidence was recorded by the Committee *in camera*. All officials of the Ministries of Law and Health and officers of the Secretariat were asked to withdraw during the evidence.<sup>590</sup> A verbatim report of the evidence was kept but the Committee decided that the whole of the evidence tendered before the Committee except the evidence given by the Member-Secretary of

---

the Board as mentioned above be laid on the Table.<sup>591</sup> [The matter itself was dropped by the Committee in view of the unqualified apology expressed by the official of the Ministry for passing on the report in question to the Government of Maharashtra.]<sup>592</sup>

In the case of a Joint Committee constituted afresh due to the previous Joint Committee having ceased consequent on the dissolution of the Lok Sabha, generally the new Committee decides to treat the work done by the earlier Joint Committee to form part of the work of the new Committee. All memoranda, etc. and oral evidence recorded by the earlier Committee are treated as part of memoranda and oral evidence by the new Committee.<sup>593</sup>

In case the Committee decides that the whole or part or summary of the evidence, as the case may be, is to be laid on the Table, it is printed in a separate volume. A copy of such evidence authenticated by the Committee Chairman is laid on the Table by him or the member so authorised by the Committee. It is not presented to the House with the report but is laid on the Table separately. In the case of a Joint Committee, an authenticated copy of the evidence is sent to the Lok Sabha Secretariat for being laid on the Table of the Lok Sabha simultaneously with its presentation to the Rajya Sabha. Copies of the evidence after they have been laid on the Table, are circulated to the members of both the Houses.

The evidence given before a Committee cannot be published by any member of the Committee or by any other person until it is formally laid on the Table.<sup>594</sup> A witness appearing before the Committee is also informed accordingly by the Chairman of the Committee before the proceedings of the evidence commence. The Chairman may, however, in his discretion, direct that such evidence be confidentially made available to members before it is formally laid on the Table.<sup>595</sup>

#### *Procedure*

After hearing the evidence, if any, the Committee considers the Bill clause-by-clause, members move their amendments, if any, which are circulated to members of the Committee in advance. The procedure regarding moving of amendments in the Committee is, as far as practicable, the same as is followed in the House during the consideration stage of a Bill, with such adaptations, whether by way of modification, addition or omission, as the Chairman may consider necessary or convenient.<sup>596</sup>

Only members of the Committee are entitled to give notice of amendments. Generally, the rules governing the admissibility of amendments in the House apply in the Committee also.<sup>597</sup> Notices of amendments tabled in the House by members before reference of the Bill to a Committee also

stand referred to the Committee. However, where notice of an amendment is received from a member who is not a member of the Committee such amendment is not taken up by the Committee unless it is moved by a member of the Committee.<sup>598</sup> Besides tabling amendments, a member of the Committee may also submit a memorandum or note containing his views on the Bill for the consideration of the Committee. Under the direction of the Committee Chairman such memoranda/notes are circulated to members of the Committee.

#### *Points of procedure*

The Chairman may from time to time issue such directions to the Committee Chairman as he may consider necessary for regulating the procedure and organising the work of the Committee.<sup>599</sup> If any doubt arises on any point of procedure or otherwise, the Committee Chairman may, if he thinks fit, refer the point to the Chairman whose decision is final.<sup>600</sup>

The Committee has the power to pass resolutions on matters of procedure relating to it for the consideration of the Chairman who may make such variations in the procedure as he may consider necessary.<sup>601</sup>

#### *Functioning of the Committee*

As the principle of the Bill is accepted by the House when it refers a Bill to a Committee, general discussion on the Bill as a whole is not permissible in the Committee. However, there have been instances when the Committees have held general discussion on the provisions of the Bill in the light of evidence tendered before the Committee.

The Joint Committees on the Plantations Labour (Amendment) Bill, 1973,<sup>602</sup> the Prevention of Food Adulteration (Amendment) Bill, 1974,<sup>603</sup> and the Central and other Societies (Regulation) Bill, 1974,<sup>604</sup> held general discussion on the various provisions of the Bills concerned.

Subject to this basic limitation, the powers of a Select/Joint Committee to make amendments to a Bill are wide and large. The Committee may amend a Bill including its long title and the short title.

The Joint Committee on the Indian Medicine and Homoeopathy Central Council Bill, 1968, changed the long and short titles of the Bill so as to confine the Bill only to the Central Council for Indian Medicine and recommended enacting of a separate Bill for Homoeopathy.<sup>605</sup>

Similarly, the Joint Committee on the Prevention of Water Pollution Bill, 1969, modified the long title of the Bill to include control of water pollution besides its prevention and changed the short title to Water (Prevention and Control of Pollution) Act.<sup>606</sup>

Likewise, the Committee may insert new provisions in the Bill or restrict the scope of the Bill. In appropriate cases, the Committee may recommend withdrawal of the Bill.

On an occasion, a member of the Joint Committee on the Prevention of Food Adulteration (Amendment) Bill, 1974 moved a resolution in the Committee with the permission of the Committee Chairman to recommend by the Committee that in view of the evidence tendered by an official witness before the Committee, the mover of the Bill might withdraw the Bill. After discussion, however, the resolution was withdrawn by the member.<sup>607</sup>

In the case of an amending Bill, amendments thereto are to be confined to the sections of the principal Act except where the clauses of the Bill necessarily lead to amendment or modification of any other sections of the principal Act which are intimately connected therewith. However, in view of this restriction, the Committee may, in appropriate cases, in its report make suggestion for the amendment of the principal Act.

For instance, the Joint Committee on the Plantations Labour (Amendment) Bill, 1973, made certain suggestions for amendment of the principal Act.<sup>608</sup>

The Joint Committee on the Prevention of Food Adulteration (Amendment) Bill, 1974, made certain suggestions for effective implementation of the principal Act, in an annexure to the report.<sup>609</sup>

Amendments to a Bill accepted by the Committee are incorporated in the Bill by the Legislative Counsel who attends the sittings of the Committee. The Committee generally authorises the Legislative Counsel to carry out changes in the Bill which are of minor or verbal or drafting or consequential nature. The draft report of the Committee is prepared by the Secretariat and sent to the Legislative Counsel for verification, vetting and return. His suggestions, if any, are suitably incorporated in the draft report. Thereafter, it is placed before the Committee Chairman and on his direction circulated to members of the Committee, representatives of the concerned Ministry as also the Legislative Counsel.

A record of the decisions of a Select Committee is maintained and circulated to members of the Committee under the directions of the Committee Chairman.<sup>610</sup> The minutes are appended to the report of the Committee and are laid on the Table as part of the report.

#### *Extension of time for report*

After the Committee has considered the Bill, it has to make a report thereon within the time fixed by the House.<sup>611</sup> As already stated, the motion referring the Bill to a Select/Joint Committee itself fixes the time

within which the Committee should report. However, where the House has not fixed any time for the presentation of the report, it is required to be presented before the expiry of three months from the date on which the House adopted the motion for reference of the Bill to the Committee.<sup>612</sup> The House may at any time, on a motion being made, direct that the time for the presentation of the report by the Committee be extended to a date specified in the motion.<sup>613</sup>

The Committee takes a decision from time to time about the time that would be needed to complete its work and authorises the Committee Chairman to move a motion for extension of time in the House before the expiry of the time fixed by the House originally or after grant of initial or subsequent extension(s). There have been occasions when motions for extension of time for presentation of reports of Committees have been opposed but later adopted after the concerned Chairmen had explained the position.

The motion for extension of time for presentation of the report of the Joint Committee on the Hindu Marriage and Divorce Bill, 1952, was opposed on the ground that it showed the way “the Government deals with the social legislation trying to postpone, whatever reasons they may give.” The motion was, however, adopted.<sup>614</sup>

A very interesting episode took place when the Minister for Law and Minority Affairs (Shri C.C. Biswas) moved a motion for further extension of time for the presentation of the report of the Joint Committee on the above Bill, upto the last day of the second week of the next session. Immediately after the motion was moved, a member opposed it. Thereupon Prime Minister, Shri Jawaharlal Nehru observed, “I should like this matter to be reconsidered. The Select Committee has been sitting indefinitely and comes to no decision at all. How are we to proceed? This is the second time that they have been asking for more time... I want that something should be done.” The Minister then explained the reasons for bringing the motion. The Chairman directed him to withdraw the motion and reconsider it. When a member pointed out that an insinuation had been made against the Committee, the Prime Minister pointed out that the Committee which was appointed during the last session was given three months to sit. “If they refuse to sit for three months; it is not the fault of this House. If they choose to sit only when the Houses are not meeting and if they cannot sit on Saturdays or Sundays because they are too tired, let others be appointed to the Select Committee.” When the Minister explained that the Committee was sitting day to day and had already held fourteen sittings, the Prime Minister observed: “...if they proceed at the pace at which they are proceeding, they may take roughly twenty years before they come to a decision.” The Chairman made the following observations:

"All the speeches hitherto made are completely irrelevant because I have not put the question to the House. As soon as Mr. Biswas moved his motion, the first thing I had to do was to put the motion before you could get up and talk. You had better withdraw the motion and reconsider the matter... You call the Select Committee to meet today, have the matter reconsidered there and then come forward with a fresh motion tomorrow morning. We will allow you to move it."<sup>615</sup>

On the third day of the episode, a fresh motion was brought asking for extension of time upto the last day of the first week of the next session. The Law Minister explained in detail the working of the Committee. A member who was also a member of the Committee announced his resignation from the Committee in protest against Prime Minister's remarks. The Prime Minister clarified his intention and expressed, "sorry" and apologised to any member of the Committee and also the Committee, if they felt in any sense hurt. He pleaded that having considered the matter, background and difficulties, the House should accept the motion moved, which was done. The member who had resigned also withdrew the resignation.<sup>616</sup>

When on another occasion, the motion for extension of time for the presentation of the report of the Joint Committee on the Foreign Contribution (Regulation) Bill, 1973, was moved, points were made about the extension sought. The Chairman observed, "On the basis of the little experience I have got during the last two sessions, I can say that some members want to go to some places. This is one of the reasons for the delay in the submission of report. If the House agrees, I will use my discretion and not allow the Committee to visit many places."<sup>617</sup>

#### *Report*

The report is drafted according to a set pattern established since long. In the introductory paragraphs general information about the Bill and the proceedings of the Committee are given *i.e.*, the date of introduction of the Bill, the date on which motion to refer the Bill to the Committee was moved, discussed and adopted in the House or the Houses, as the case may be; particulars of sittings held by the Committee; extension of time, if any, obtained for presentation of the report, etc. If any memoranda, etc. are received by the Committee, or any evidence is taken by the Committee or if any study tours are undertaken or study groups/sub-Committees are appointed, these facts are also mentioned.

In the main part of the report, the Committee makes observations on the changes made by it in various clauses of the Bill. The Committee also may make general observations or recommendations for the attention of the House/Government.

For instance, the Joint Committee on the Plantations Labour (Amendment) Bill, 1973, brought to the attention of the House the non-implementation of welfare measures for plantation labour.<sup>618</sup>

The Joint Committee on the Indian Medicine and Homoeopathy Central Council Bill, 1968, recommended that a separate Bill for the constitution of a Central Council for Homoeopathy be introduced in Parliament at an early date.<sup>619</sup>

The report finally concludes with the usual recommendation to the House that the Bill, or the Bill as amended by the Committee, be passed. Where the Bill has been altered, the Committee may, if it deems fit, make a recommendation to the member in-charge of the Bill that his next motion should be a motion for circulation of the Bill as amended by the Committee, or, where the Bill has been circulated, for its re-circulation.<sup>620</sup>

#### *Consideration of report and Bill, as amended, by the Committee*

The draft report and the Bill as amended are considered by the Committee at its last sitting. Thereafter, the Bill as amended is adopted by the Committee and the Committee then adopts the draft report. After these are adopted, the Committee fixes a date not beyond the one fixed by the House, for the presentation of the report, and the Committee authorises the Committee Chairman, or in his absence any other member, to present its report to the House. In the case of a Joint Committee, a member of the Lok Sabha, or in his absence any other member of that House, is chosen for laying a copy of the report on the Table of that House simultaneously with its presentation to the Rajya Sabha.

The report of the Committee is signed by the Chairman of the Committee on behalf of the Committee. If the Chairman of the Committee is absent or is not readily available, the Committee may choose another member to sign the report on behalf of the Committee.<sup>621</sup>

A date is also fixed by the Committee for sending the minutes of dissent, if any, to the Secretariat by a member of the Committee. The minutes of dissent, if any, are appended to the report before its presentation.

#### *Minutes of dissent*

Any member of the Committee may record a minute of dissent on any matter connected with the Bill or dealt with in the report.<sup>622</sup> Minutes of dissent are required to be given to the officer of the Committee or delivered in the Notice Office on or before the date and time fixed for this purpose by the Committee. The minutes of dissent may be in Hindi or English and are presented as such. It is permissible for members to give minutes of dissent jointly. A minute of dissent has to be couched in temperate and

decorous language and should not cast aspersion on the Committee. If in the opinion of the Chairman of the Committee a minute of dissent contains words, phrases or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minute of dissent. Likewise the Chairman, Rajya Sabha shall have the power to order expunction in like circumstances or to review all decisions regarding expunction from minutes of dissent and his decision thereon shall be final.<sup>623</sup> As distinguished from the minute of dissent, a member may also give a Note on the report which is also appended to the report when it is presented to the House.

*Presentation of report*

The report of the Committee on a Bill together with the minutes of dissent, if any, are presented to the House by the Chairman of the Committee or in his absence by any member of the Committee.<sup>624</sup>

The report presented to the House generally consists of the list of members of the Committee, report of the Committee signed by the Chairman, minutes of dissent, if any, Bill as reported by the Committee, text(s) of the motion(s) adopted by the House(s) while referring the Bill to a Committee, report of the sub-Committee/study notes, if any, statements of memoranda received, list of witnesses who gave evidence before the Committee, minutes of sittings and any other important material made available to members, in the form of Annexures, etc.

In the case of a Joint Committee, an authenticated copy of the report is sent to the Lok Sabha Secretariat for being laid on the Table of the Lok Sabha, simultaneously with its presentation to the Rajya Sabha.

Ordinarily, the report of a Committee is to be presented to the House but in case the Committee completes its report when the House is not in session, the Committee Chairman may present it to the Chairman. In such a case, the fact is published in the Bulletin. The report is presented to the House during the next session at the first convenient opportunity by the Committee Chairman or in his absence by a member of the Committee. While presenting the report to the House the Committee Chairman or in his absence the member presenting the report can make a brief statement to the effect that the report was presented to the Chairman when the House was not in session and that orders for the printing, publication or circulation of the report were given by the Chairman.

Where the Committee ceases to exist after the presentation of the report to the Chairman and before its presentation to the House, the report is required to be laid by the Secretary-General on the Table of the

House at the first convenient opportunity. While laying the report, the Secretary-General has also to make a statement to the effect that the report was presented to the Chairman before the Committee ceased to exist and where the Chairman had ordered the report to be printed, published or circulated, the Secretary-General has to report that fact also to the House.<sup>625</sup>

In any other case, in presenting a report the Chairman of the Committee, or in his absence, the member presenting the report, if he makes any remarks, he has to confine himself to a brief statement of fact, but no debate can arise at this stage.<sup>626</sup>

While presenting the report of the Joint Committee on the Indian Medicine and Homoeopathy Central Council Bill, 1968, the Committee Chairman made observations regarding the Committee's unanimous recommendation for setting up two Central Councils instead of one as contained in the Bill referred to the Committee—one for the Indian Medicine and another for Homoeopathy.<sup>627</sup>

On another occasion, immediately after the report of the Select Committee on the Chit Funds Bill, 1982, was presented, members congratulated the Committee Chairman as also reference was made to the assertion by the Rajya Sabha of its rights (in referring a Bill passed by the Lok Sabha to a Select Committee of the House, when it was not associated at the Committee stage in the Lok Sabha).<sup>628</sup>

#### *Printing and publication of report*

The report of the Committee is printed and copies thereof are circulated to members. The report and the Bill as reported by the Committee is also published in the Gazette.<sup>629</sup>

The Chairman may order the printing, publication or circulation of a report presented to him when the House is not in session. This fact is published in the Bulletin. The fact that the report was ordered to be printed, etc. by the Chairman has to be mentioned by the Committee Chairman or the Secretary-General, as the case may be, as already mentioned, when the report is presented/laid on the Table when the House meets again.<sup>630</sup>

### **IV. Department-related Parliamentary Standing Committees**

#### *Background*

The introduction of the Department-related Parliamentary Standing Committee System or Subject-Committees had been under the consideration of Parliament and various fora from time to time. For instance, the subject was discussed at the Presiding Officers' Conference held at Bhubaneswar in 1978 which appointed a Committee of Presiding Officers on "Committee System". The report of that Committee was considered and adopted at the

Conference held at Lucknow in 1985. A beginning was made by the Lok Sabha by setting up three Standing Committees, namely, on Agriculture, Science and Technology, and Environment and Forests.<sup>631</sup> The Committees consisted of 22 members—15 members from the Lok Sabha and 7 members from the Rajya Sabha—to be nominated by the respective Presiding Officers.<sup>632</sup>

The Committee on Rules of the Rajya Sabha also considered the matter and recommended constitution of three new Committees on Human Resource Development, Industry, and Labour along the lines of the three Committees mentioned above, consisting of members of both Houses of Parliament.<sup>633</sup> The House adopted the report of the Committee on 20 August 1992. Subsequently, the General Purposes Committee and the Committee on Rules together considered the entire matter *de novo*.<sup>634</sup> The subject was further discussed at a joint sitting of the Committees on Rules of the Rajya Sabha and the Lok Sabha, under the Chairmanship of the Chairman, Rajya Sabha, on 11 March 1993. As a result of these deliberations, a decision was taken to set up seventeen Department-related Parliamentary Standing Committees on various Ministries/ Departments of the Union Government.

In pursuance of the above decision, the Committee on Rules in its sixth Report recommended incorporation of the rules in the Rules of Procedure and Conduct of Business in the Rajya Sabha for the purpose.<sup>635</sup> The report of the Committee was adopted by the House on 29 March 1993, with some amendments. The new rules (268-277) relating to Department-related Parliamentary Standing Committees came into effect on 29 March 1993 itself, following a direction from the Chairman in the matter. The Department-related Committee System was inaugurated by the then Vice-President and Chairman, Rajya Sabha, Shri K.R. Narayanan on 31 March 1993, at a function held in the Central Hall, Parliament House, who described the system as “a new phase in the evolution of our parliamentary system... to ensure the accountability of Government to Parliament through more detailed consideration of measures in these Committees... The intention is not to weaken or criticise the administration but to strengthen it by investing it with more meaningful parliamentary support.”<sup>636</sup>

Accordingly, the seventeen Department-related Parliamentary Standing Committees were constituted by the Chairman, Rajya Sabha and the Speaker, Lok Sabha for the first time on 8 April 1993, by nominating members of the Rajya Sabha and the Lok Sabha, respectively to serve on them.

Thereafter, on 20 July 2004, seven more committees were added and subsequently necessary modifications were made under Rule 268 in the Third Schedule to the Rules of Procedure and Conduct of Business in the Council of States. As such, when new Ministries/Departments or when

nomenclature of a Ministry/Department is changed, amendments are made in the Third Schedule. The present position of the Department-related Parliamentary Standing Committees is as mentioned below:

Sl. No.	Name of Committee	Ministries
Part I		
1.	Committee on Commerce	Commerce and Industry
2.	Committee on Home Affairs	1. Home Affairs 2. Development of North-Eastern Region
3.	Committee on Human Resource Development	1. Human Resource Development 2. Youth Affairs and Sports 3. Women and Child Development
4.	Committee on Industry	1. Heavy Industries and Public Enterprises 2. Micro, Small and Medium Enterprises
5.	Committee on Science and Technology, Environment and Forests	1. Science and Technology 2. Space 3. Earth Sciences 4. Atomic Energy 5. Environment, Forest and Climate Change
6.	Committee on Transport, Tourism and Culture	1. Civil Aviation 2. Road Transport and Highways 3. Shipping 4. Culture 5. Tourism
7.	Committee on Health and Family Welfare	1. Health and Family Welfare 2. Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy (AYUSH)
8.	Committee on Personnel, Public Grievances, Law and Justice	1. Law and Justice 2. Personnel, Public Grievances and Pensions
Part II		
9.	Committee on Agriculture	1. Agriculture 2. Food Processing Industries
10.	Committee on Information Technology	1. Communications and Information Technology 2. Information and Broadcasting

Sl. No.	Name of Committee	Ministries
11.	Committee on Defence	Defence
12.	Committee on Energy	1. New and Renewable Energy 2. Power
13.	Committee on External Affairs	1. External Affairs 2. Overseas Indian Affairs
14.	Committee on Finance	1. Finance 2. Corporate Affairs 3. Planning 4. Statistics and Programme Implementation
15.	Committee on Food, Consumer Affairs and Public Distribution	Consumer Affairs, Food and Public Distribution
16.	Committee on Labour	1. Labour and Employment 2. Textiles 3. Skill Development and Entrepreneurship
17.	Committee on Petroleum and Natural Gas	Petroleum and Natural Gas
18.	Committee on Railways	Railways
19.	Committee on Urban Development	1. Urban Development 2. Housing and Urban Employment and Poverty Alleviation
20.	Committee on Water Resources	Water Resources, River Development and Ganga Rejuvenation
21.	Committee on Chemicals and Fertilizers	Chemicals and Fertilizers
22.	Committee on Rural Development	1. Rural Development 2. Drinking Water and Sanitation 3. Panchayati Raj
23.	Committee on Coal and Steel	1. Coal 2. Mines 3. Steel
24.	Committee on Social Justice and Empowerment	1. Social Justice and Empowerment 2. Tribal Affairs 3. Minority Affairs

These Committees have been specified in a Schedule to the Rules of Procedure.<sup>637</sup> The Chairman and the Speaker have been given the power to alter the Schedule from time to time in consultation with each other.<sup>638</sup>

#### *Constitution*

Each of these Committees consists of not more than 31 members – 10 members nominated by the Chairman and 21 members nominated by the Speaker – from amongst the members of the respective Houses. A member appointed as a Minister is, however, not nominated or does not continue, as a member of the Committee.<sup>639</sup>

The general method adopted for constitution/reconstitution of these Committees is that the seats for allocation in all the twenty-four Committees are worked out on the basis of the respective strength of various parties/groups in the Rajya Sabha. Since the number of seats in the Committees is approximately same as the total number of members of the Rajya Sabha and also since Ministers are excluded from the membership of Committees, sometimes all the seats in all the Committees may not be filled. In view of this, there are occasions where one member is nominated on more than one Committee. After working out the total slots available to parties, the *inter se* distribution of seats in various Committees for parties is calculated and the leaders of parties are requested to intimate the preferences of their members for nomination to the respective Standing Committees as per the allocation of seats.<sup>640</sup>

The Chairman of each of the Committees specified in Part-I above is appointed by the Chairman from amongst members of the respective Committees and the Chairman of each of the Committees specified in Part II is appointed by the Speaker.<sup>641</sup> Like membership of the Committees, the Chairmanship thereof is also shared between the ruling party/parties and the major opposition parties. Of the Committees constituted for the first time in April 1993, the Chairmanship of Committees on Home Affairs and Science and Technology, Environment and Forests was with the ruling party members and those of the Committees on Commerce, Industry and Transport and Tourism were with the opposition members. The Chairmanship of Committee on Human Resource Development was with an Independent (unattached) member. A member of the Committee holds office for a term not exceeding one year.<sup>642</sup>

#### *Functions*

The function of the Committees is to consider the Demands for Grants of the related Ministries/Departments and to report thereon. However, the Committees cannot suggest anything of the nature of cut motions.<sup>643</sup> The procedure followed by the Committees in this respect is that after the

general discussion on the Budget in the Houses is over, the Houses are adjourned for a fixed period. During this period, the Committees consider the Demands for Grants of the related Ministries and present their reports within the specified period. There is a separate report on the Demands for Grants of each Ministry.<sup>644</sup>

There have been four instances when the Demands for Grants were not referred to the Department-related Parliamentary Standing Committees—in the year 2006, during the 207<sup>th</sup> Session, due to the impending Assembly Elections in five States; in the year 2009, during the 217<sup>th</sup> Session, due to the delay in the constitution of the DRSCs; in the year 2011, during the 222<sup>nd</sup> Session, due to Assembly Elections in five States; and in the year 2014, during the 232<sup>nd</sup> Session, due to the constitution of the Sixteenth Lok Sabha after the General Elections. On all four occasions, the motion for suspension of rule 272 of the Rules of Procedure and Conduct of Business in the Council of States in its application to consideration of Demands for Grants by the Department-related Parliamentary Standing Committees, was moved by the Minister of Parliamentary Affairs.<sup>645</sup>

In 1993, after the formation of the Committees, both the Houses adjourned on 31 March; the Lok Sabha reassembled on 19 April and the Rajya Sabha a week later (separate session). Thus, about three weeks were devoted to the consideration of the Demands for Grants in the Committees.

In 1994, the Houses adjourned on 18 March to meet again on 18 April and in 1995, the Houses adjourned on 31 March till 24 April for the consideration of Demands for Grants in the Committees.

In 1996, after the General Elections, the Budget was presented on 22 July 1996. The House adjourned on 2 August 1996 till 26 August 1996 for consideration of Demands for Grants in Committees.

The Committees also examine Bills, pertaining to the related Ministries/ Departments, referred to them by the Chairman or the Speaker, as the case may be, and report thereon.<sup>646</sup> Generally, the Committees examine only such Bills introduced in either House, as are referred to them by the respective Presiding Officers.<sup>647</sup> There have, however, been instances when Bills have been referred to Committees even at the pre-introduction stage.<sup>648</sup> The Bills are referred to the Committees concerned by the Presiding Officers in consultation with each other. Whenever a Bill is referred to any of these Committees, members are informed through a paragraph in the Parliamentary Bulletin.<sup>649</sup>

The Committees consider the general principles and clauses of the Bill referred to them and make report thereon within such time as may be specified by the Chairman/Speaker.<sup>650</sup>

The Criminal Law Amendment Bill, 1995, as introduced in the Rajya Sabha, was referred to the Committee on Home Affairs. While doing so, the Chairman desired that the Committee should submit its report within two days.<sup>651</sup>

The Representation of the People (Amendment) Bill, 1995, as introduced in the Rajya Sabha was also referred to the Committee on Home Affairs. The Chairman desired that the Committee should submit its report at the earliest so that the Bill could be passed during that session of Parliament.<sup>652</sup>

There may, however, be occasions when it may not be possible for the Committees to present their reports on the Bill referred to them within the stipulated period. On such occasions, Committees approach Chairman for seeking an extension of time for making a report on the Bill.

The Lotteries (Regulation) Bill, 1998, as introduced in the Lok Sabha on 27 May 1998 was referred to the Committee on Home Affairs on 10 June 1998. While doing so, the Chairman, Rajya Sabha desired that the Committee should submit its Report by 3 July 1998.<sup>653</sup> However, the Committee felt that it would not be possible to present the report on the Bill within the stipulated period. Therefore, it sought an extension of time from the Chairman, Rajya Sabha who granted the extension upto 6 July 1998.<sup>654</sup>

The Lok Pal Bill, 1998, as introduced in the Lok Sabha on 3 August 1998, was referred to the Committee on Home Affairs on 7 December 1998. While doing so, the Chairman, Rajya Sabha desired that the Committee should submit its report by 11 December 1998.<sup>655</sup> However, the Committee felt that it would not be possible to present the report on the Bill within the stipulated period. Therefore, it sought an extension of time from the Chairman, Rajya Sabha who granted extension upto the last day of the first week of Budget Session of 1999.<sup>656</sup>

The Central Vigilance Commission Bill, 1998, as introduced in the Lok Sabha on 7 December 1998, was referred to the Committee on Home Affairs on 10 December 1998. While doing so, the Chairman, Rajya Sabha desired that the Committee should submit its report by 16 December 1998.<sup>657</sup> However, the Committee felt that it would not be possible to present the report on the Bill within the stipulated period. Therefore, it sought an extension of time from the Chairman, Rajya Sabha who granted extension upto the last day of the first week of Budget Session of 1999.<sup>658</sup>

The Civil Aviation Authority of India Bill, 2013 was referred by the Chairman, Rajya Sabha, to the Committee on Transport, Tourism and Culture on the 18 September 2013 for examination and report within two months *i.e.* by 17 November 2013. However, the Committee felt it would not be possible to present the report on the Bill within the

stipulated period, as the Bill was a lengthy one and the Committee was yet to hear important stakeholders associated with the Bill. Accordingly, Chairman of the Committee requested extension of time for three months *i.e.* upto 17 February 2014. However, the Chairman granted an extension of time upto the 17 January 2014 *i.e.* for two months for presentation of the report on the aforesaid Bill.

The Ministries/Departments of the Government of India prepare annual reports on their working. These are circulated to members through the Secretariat to facilitate discussion of the Demands for Grants/Appropriation Bills. It is the function of the Committees to consider these annual reports of the Ministries/Departments and report thereon.<sup>659</sup> Generally, the Committees select issues/topics dealt with in the annual reports for in-depth study and report thereon.

It is also the function of the Committee to consider national basic long term policy documents presented to the Houses,<sup>660</sup> if referred to the Committee by the Chairman or the Speaker, as the case may be, and report thereon.<sup>661</sup>

The Minister of State in the Ministry of Science and Technology sent a copy of the Draft Paper on a New Technology Policy to the Chairman with the request to refer it to the Committee on Science and Technology, Environment and Forests for views. The Minister was advised to comply with rule 270(d) and have the document laid on the Table first. Nothing further was heard in the matter.<sup>662</sup>

#### *Matters not to be considered by the Committee*

The Rules have put the following two restrictions on the Committee's functions:

- (i) a Committee shall not consider matters of day-to-day administration of the related Ministries/Departments,<sup>663</sup> and
- (ii) a Committee shall not ordinarily consider matters within the purview of any other Parliamentary Committee.<sup>664</sup>

On an occasion, when the Committee on Science and Technology, Environment and Forests wanted to take up R and D aspects of Atomic Energy, the Chairman ruled in the file that since another Standing Committee (on Energy) was dealing with atomic energy, it would be embarrassing to discuss the same subject in Science and Technology Committee.<sup>665</sup>

#### *Reports*

The reports of the Committees are based on broad consensus.<sup>666</sup> However, a member of any of these Committees may record a minute of dissent on the report of the Committee.<sup>667</sup> The reports of the Committees,

together with the minutes of dissent, if any, are presented to the Houses.<sup>668</sup> The reports of these Committees can also be presented to the Chairman, if the House is not in session and later presented to the House by the Committee Chairman/Secretary-General, when the House meets.<sup>669</sup>

The Chairman of the Committee on Transport and Tourism (Shri Pramod Mahajan) presented the twentieth Report of the Committee regarding privatisation policy in regard to Major Ports to the Chairman on 25 January 1996, as the House was not in session.<sup>670</sup> Subsequently, the report was laid on the Table of the Lok Sabha on 27 February 1996 and presented to the Rajya Sabha next day.<sup>671</sup>

Similarly, the Chairman of the Committee on Human Resource Development (Shri P. Upendra) presented the Committee's forty-first Report on the Private Universities (Establishment and Regulation) Bill, 1995, to the Chairman on 26 March 1996, when the House was not in session. Subsequently, the report was laid on the Table of the Lok Sabha and presented to the Rajya Sabha on 29 August 1996 by a member of the newly constituted Committee.<sup>672</sup>

The twenty-ninth, thirtieth and thirty-first Reports of the Committee on Home Affairs could not be presented to the House/Chairman; as the Committee's term expired on 7 April 1996. The Chairman directed that the reports be laid on the Table (by the Secretary-General) when the Rajya Sabha met again which was accordingly done.<sup>673</sup>

Since 1966, Chairmen of different Department-related Committees presented Reports of the respective Committees to the Chairman, Rajya Sabha, during inter-session period. This practice has now been commonly followed.<sup>674</sup>

The reports of the Department-related Standing Committees have persuasive value and are treated as considered advice given by the Committees.<sup>675</sup> Nonetheless the Committees, like other Standing Committees do take follow-up action on the implementation of their recommendations.

For instance, the Committee on Transport and Tourism took a serious view of the inordinate delay in the implementation of the Committee's recommendations and after discussion decided that three month's time would be enough for Government to implement Committee's recommendations.<sup>676</sup>

After adoption of the report by the Committee, instructions, if any, from the Chairman of the Committee to modify the final report should be brought to the notice of the Secretary-General. The Chairperson of the Committee should invariably follow up their verbal instructions of such nature in writing to the Secretariat so that there is no room for any misgivings.

The 212<sup>th</sup> Report of the Committee on Science and Technology, Environment and Forests, after its adoption by the Committee, was modified by the Secretariat on the instructions of the Chairman of the Committee leading to some criticism about the functioning of the Secretariat. The Chairman, Rajya Sabha then gave the direction that to obviate any criticism on the functioning of the Secretariat after adoption of the report by the Committee, instructions from the Chairman of the Committee to modify the final report should be brought to the notice of the Secretary-General.<sup>677</sup> The Chairperson of the Committee should invariably follow up their verbal instructions of such nature in writing to the staff so that there is no room for any misgivings.

#### *Applicability of Select Committee Rules*

The rules relating to the Department-related Parliamentary Standing Committees are not exhaustive. Hence, in other respects the rules relating to Select Committees on Bills in the Rajya Sabha apply *mutatis mutandis* to the Standing Committees functioning under the jurisdiction of the Rajya Sabha. As regards the Committees functioning under the jurisdiction of the Lok Sabha, general rules applicable to other Parliamentary Committees in the Lok Sabha apply to the Department-related Committees also.<sup>678</sup>

#### *Chairman's direction regarding Committee meetings*

The Chairman can also give directions under the Rules of Procedure and Conduct of Business in the Rajya Sabha regarding the meetings of the Committees. For instance, on 8 December 2000, the Chairman made the following direction:

“Unless the Chairman otherwise permits, no sitting of a Committee shall be held after the commencement of a sitting of the Council and before 15.00 hours on the days when the Council is sitting.”<sup>679</sup>

#### **V. Financial and other Committees on which Rajya Sabha is represented**

There are Committees which are initiated by the Lok Sabha and provided for in the Rules of Procedure and Conduct of Business of that House. However, members of the Rajya Sabha are also associated with those Committees. These Committees are described briefly below:

##### *(a) Committee on Public Accounts*

The Committee consists of not more than fifteen members from the Lok Sabha and seven members from the Rajya Sabha for being associated with the Committee.<sup>680</sup> They are elected by the respective Houses every year from amongst their members according to the principle of proportional representation by means of the single transferable vote.

The term of office of members of the Committee is one year; it can, however, be extended in a special case by a motion adopted by the Houses.

A motion extending the term of the Public Accounts Committee upto 30 April 1968 was adopted, as the term of the Committee was to expire on 31 March that year. The motion was moved by the Minister of Parliamentary Affairs. By an amendment, members who would retire on 2 April that year, were excluded.<sup>681</sup>

A new Committee is elected every year before the expiry of the term of office of the outgoing Committee, but it enters upon office only on the expiry of the term of the previous Committee. Usually, the Committee is set up in May every year and its term expires on 30 April of the following year. A motion is moved in the Lok Sabha requesting the Rajya Sabha to join the Committee and nominate seven members to associate with the Committee. The message in respect of the motion upon receipt from the Lok Sabha is reported to the House by the Secretary-General.<sup>682</sup> Thereafter, the Minister of Parliamentary Affairs moves a motion for election of seven members which is adopted.<sup>683</sup> Then the programme of election of seven members is fixed and notified in the Parliamentary Bulletin.<sup>684</sup> The result of election is notified in the Parliamentary Bulletin<sup>685</sup> and a message conveying the names of members of the Rajya Sabha elected to serve on the Committee is sent to the Lok Sabha.

Casual vacancies in the Committee are filled on a motion moved in the Rajya Sabha. When a member of the Rajya Sabha serving on the Committee retires, the vacancy caused in the Committee by such retirement is filled by nominating another member of the Rajya Sabha. In such a case, a motion is moved in the Lok Sabha recommending to the Rajya Sabha to nominate another member for the remaining term of the Committee.

The PAC may appoint one or more sub-Committees, each having the powers of the undivided Committee, to examine any matter that may be referred to them, and the reports of the said sub-Committee shall be deemed to be the reports of the whole Committee. The Chairperson of the Committee shall appoint the Convenor of the sub-Committee. After the report is finalised by the sub-Committee, it shall be submitted to the Chairperson, PAC. Copies of the draft report shall be made available to all members of the Committee before they meet to consider and adopt the report of the sub-Committee.

The main function of the Committee is to examine the Appropriation Accounts and the annual Finance Accounts of the Government of India and such other Accounts laid before Parliament as the Committee may think fit. The Committee also examines statements of accounts of corporations,

---

autonomous and semi-autonomous bodies (excluding public undertakings which have been allotted to the Committee on Public Undertakings).<sup>686</sup>

The report of the Committee is laid on the Table of the House simultaneously with its presentation to the Lok Sabha. Generally, the Committee's reports are not discussed unless there is a specific issue of serious nature.

On 27 August 1966, a motion (which was earlier admitted as a no-day-yet-named motion)<sup>687</sup> was moved "that the fifty-fifth Report of the Public Accounts Committee with reference to the observations of the Committee contained in para 4.128 of the fiftieth Report of the Public Accounts Committee be taken into consideration". There were two amendments moved to the motion. After discussion, the amendments were withdrawn and the discussion concluded.<sup>688</sup>

Earlier in relation to the above report, a member of the Committee laid on the Table a copy of the verbatim proceedings of the twenty eighth sitting of the Public Accounts Committee on 1 August 1966, containing the evidence given by the Minister of Food, Agriculture, Community Development and Cooperation.<sup>689</sup> (That report arose out of the Minister's statement in the Lok Sabha on 18 May 1966 regarding para 4.128 of the fiftieth Report.)

There have also been occasions when Ministers have made statements in the House on the observations made in the reports of the Public Accounts Committee.

The Minister for Revenue and Civil Expenditure made a statement on certain observations made by the Committee in its ninth Report in connection with orders placed for certain jeeps in London and for certain defence stores in the continent in 1948 for the Defence Services.<sup>690</sup>

The Minister of Finance made a statement regarding certain observations contained in the fiftieth Report of the Committee in respect of certain barter deals with and by Iron and Steel Controller.<sup>691</sup>

(b) *Committee on Public Undertakings*

The Committee consists of fifteen members of the Lok Sabha and seven members of the Rajya Sabha for being associated with the Committee.<sup>692</sup> The procedure in this respect is the same as is adopted in the case of Public Accounts Committee.<sup>693</sup> The term of office of members of the Committee is one year; it can, however, be extended in a special case by a motion adopted by the Houses.<sup>694</sup>

The functions of the Committee are to examine the working of the Public Undertakings specified in the Fourth Schedule to the Rules of

Procedure and Conduct of Business in the Lok Sabha. Every report of the Committee is laid on the Table of the Rajya Sabha simultaneously with its presentation to the Lok Sabha.<sup>695</sup>

On an occasion, statements were laid on the Table showing the replies of Government to the recommendations made in a report of the Committee on Public Undertakings (as well as in a report of the Estimates Committee) which were not furnished by Government in time for inclusion in the report(s) of the Committee(s).<sup>696</sup>

A motion for constitution of a Joint Committee on State Undertakings was moved in the Lok Sabha on 24 November 1961. A point of order was raised objecting to inclusion of members of the Rajya Sabha in the Committee. The Law Minister opposed the point of order. The motion was not discussed further. It lapsed on the dissolution of the Lok Sabha. Two motions on the subject were also included in the list of business of the Lok Sabha for 28 August 1962. The first was for the constitution of a Committee on Public Undertakings and the second provided that when the Committee would discharge the functions which fell within the purview of the Estimates Committee, it would function with the Lok Sabha members only.

The matter was raised in the Rajya Sabha on 27 August 1962. The motion was not pursued further in the Lok Sabha. On 21 September 1963, two new motions were moved and discussed in the Lok Sabha removing the objectionable portion from the motions. The motions as amended were adopted on 20 November 1963 by the Lok Sabha. The Rajya Sabha discussed the motion on 26, 27 and 28 November 1963 and adopted the same on 2 December 1963, and started joining the Committee.

The Committee had often felt the need to bring out before the Parliament the deficiencies relating to the functioning of Public Undertakings that come to notice during their study visits and to make observations/recommendations to the Government for overcoming the deficiencies noticed and for toning up the functioning of the Undertakings concerned.

Consequently, the matter was considered in detail by the Committee at their sitting held on 7 September 2000 and a resolution passed under rule 281 of the 'Rules of Procedures and Conduct of Business in Lok Sabha' to prepare and lay their Study Tour Reports on the Table of the two Houses of Parliament and submitted the same for the consideration and orders of the Speaker. The Speaker accorded approval in the matter on 20 November 2000 and since then, the Committee have been laying their Study Tour Reports on the Table of the Rajya Sabha simultaneously with their presentation to the Lok Sabha.

(c) *Railway Convention Committee*

The Railway Convention Committee is an *ad hoc* Committee constituted to review the rate of dividend which is payable by the railway undertaking to the general revenues as well as other ancillary matters in connection with railway finance *vis-a-vis* general finance and make recommendations thereon. However, over the years the Committee has also been examining various aspects of the working of railways and railway finances. Apart from recommending the rate of dividend payable by the Railways to the general revenues, it also suggests the level of appropriation to various funds of Railways like the Depreciation Reserve Fund, the Development Fund, the Pension Fund, the Capital Fund and the Safety Fund. The Committee of 1949, 1954, 1960 and 1965 confined themselves only to the question of determining the rate of dividend payable by the Railway undertaking during the succeeding quinquennium. Since 1971, for the first time, the Railway Convention Committee has, in addition to recommending the rate of dividend payable by the Railways to the general revenues, also been taking up other subjects for detailed examination having a bearing on the working of Railways and Railway finances. There are no separate rules made for the functioning of the Committee in the Rules of Procedure and Conduct of Business in the Lok Sabha. The Committee functions more or less on the same lines as Financial Committees of the Lok Sabha for which there exist rules.

The Committee is constituted from time to time by a resolution moved in the Lok Sabha by Government and concurred in by the Rajya Sabha.<sup>697</sup> It consists of eighteen members of whom twelve members of the Lok Sabha are nominated by the Speaker and six members of the Rajya Sabha are nominated by the Chairman. The Ministers of Finance and Railways<sup>698</sup> are generally among the members nominated to the Committee. The Committee once constituted functions till the dissolution of the Lok Sabha unless it presents its final report earlier, and thus become *functus officio*.<sup>699</sup>

The Committee presents its reports from time to time. The report is discussed in the House in the form of a resolution moved by the Minister of Railways approving the recommendations contained in the report, along with the general discussion on the Railway Budget and is adopted.<sup>700</sup>

On an occasion, the Rajya Sabha passed a resolution that the period for the continuance in force of the recommendations of the Railway Convention Committee, 1954 approved by the House by a resolution adopted on 21 December 1954 be extended by one year upto 31 March 1961.<sup>701</sup>

(d) *Committee on the Welfare of Scheduled Castes and Scheduled Tribes*

The Committee consists of thirty members—twenty from the Lok Sabha and ten from the Rajya Sabha—elected by the respective Houses according to the principle of proportional representation by means of the single transferable vote. The term of office of the Committee is one year.<sup>702</sup>

The functions of the Committee are to consider reports of the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes submitted under article 338(5)(d) and 338A(5)(d), respectively of the Constitution and to report to the Parliament as to the measures that should be taken by the Union Government and action already taken by Government on the measures proposed by the Committee; to examine the measures taken by Government to secure due representation of the SC/ST in services, etc. and to report on the working of welfare measures for SCs/STs.<sup>703</sup>

The Committee is generally reconstituted for the term beginning on 1 May and ending on 30 April of the following year. A motion is moved and adopted for the purpose in the Lok Sabha recommending to the Rajya Sabha to nominate ten members on the Committee. The Lok Sabha message in respect of the motion is reported to the House by the Secretary-General. The names of the Rajya Sabha members elected to the Committee are conveyed by a message to the Lok Sabha by the Secretary-General.

(e) *Committee on Welfare of Other Backward Classes (OBCs)*<sup>704</sup>

The Committee is constituted on adoption of a motion by the Lok Sabha and concurred in by the Rajya Sabha. The Committee consists of thirty members — twenty from the Lok Sabha and ten from the Rajya Sabha — elected by the respective Houses according to the principle of proportional representation by the means of the single transferable vote. The term of office of the Committee is one year from the date of its first meeting.

The functions of the Committee are to consider reports of the National Commission for Backward Classes, set up under the National Commission for Backward Classes Act, 1993 and to report to both the Houses as to the measures that should be taken by the Union Government in respect of matters within the purview of the Union Government including the Administrations of the Union territories as well as the action taken by them on the measures proposed by the Committee; to examine the measures taken by the Union Government to secure due representation of OBCs, particularly the Most Backward Classes, in service and posts under its control (including appointments in public sector undertakings, statutory and semi-Government bodies and in the Union territories; to consider generally

and to report to both the Houses on all matters concerning the welfare of OBCs which fall within the purview of the Union Government, including the Administrations of UTs/and to examine such matters as may be deemed fit by the Committee or are specifically referred to it by the House or the Speaker.

The Committee is constituted for one year at a time. The process of constitution is the same as that of the Committee on Public Accounts, Committee on Public Undertakings and Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

(f) *Joint Committee on Offices of Profit*

The Committee is constituted on adoption of a motion to that effect by the Lok Sabha and concurred in by the Rajya Sabha. The Committee consists of fifteen members—ten from the Lok Sabha and five from the Rajya Sabha—elected by respective Houses according to the principle of proportional representation by means of the single transferable vote. The Committee is constituted for the duration of each Lok Sabha.

The function of the Committee is generally to examine the composition and character of Government Committees and to recommend in relation to them which offices should or should not disqualify holders thereof for being chosen as and for being a Member of Parliament under article 102[I(a)] of the Constitution. The Committee also recommends from time to time any amendments in the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 as amended from time to time. The Committee's report is presented to the Lok Sabha and laid on the Table of the Rajya Sabha simultaneously.<sup>705</sup>

(g) *Library Committee*

A Library Committee is constituted every year by the Speaker, Lok Sabha, to advise him on all matters concerning the developments of Parliament Library. The Committee, at present, consists of six members from Lok Sabha nominated by the Speaker and three members from the Rajya Sabha, nominated by the Chairman of the Rajya Sabha. The Chairperson of the Committee is appointed by the Speaker from amongst members of the Committee, provided that the Deputy Speaker, in case is a member of the Committee, shall be appointed as the Chairperson of the Committee. Casual vacancies in the Committee are filled by nomination by the Speaker in respect of the members from Lok Sabha, and by the Chairman of Rajya Sabha in respect of the members from Rajya Sabha. The Library Committee keeps a watch on the quality and quantum of all acquisitions of the Library and gives comments and suggestions to further improve the functioning of the Library and its ancillary services. The Committee holds office for a term not exceeding one year.

(h) *Committee on Empowerment of Women*

In pursuance of the resolutions moved in both the Houses of Parliament, the Rules Committee (Eleventh Lok Sabha) in their second Report laid in Lok Sabha on 6 March 1997 recommended for the constitution of the Committee for improving the status of women. The Committee on Empowerment of Women was constituted for the first time on 29 April 1997.

The Committee consists of not more than thirty members, twenty members nominated by the Speaker from amongst members of Lok Sabha and ten members nominated by the Chairman, Rajya Sabha from amongst members of Rajya Sabha.

The term of office of members of the Committee is one year. The functions of the Committee on Empowerment of Women are:<sup>706</sup>

- (i) to consider the report submitted by the National Commission for Women and to report on the measures that should be taken by the Union Government for improving the status/conditions of women in respect of matters within the purview of the Union Government including the Administrations of the Union territories;
- (ii) to examine the measures taken by the Union Government to secure for women equality, status and dignity in all matters;
- (iii) to examine the measures taken by the Union Government for comprehensive education and adequate representation of women in legislative bodies/services and other fields;
- (iv) to report on the working of the welfare programmes for women;
- (v) to report on the action taken by the Union Government and Administration of the Union territories on the measures proposed by the Committee; and
- (vi) to examine such other matters as may deem fit to the Committee or are specifically referred to it by the Lok Sabha or the Speaker and the Rajya Sabha or the Chairman.

The report of the Committee is presented to Lok Sabha and a copy thereof is simultaneously laid on the Table of Rajya Sabha.

**VI. Statutory Joint Committees**

(a) *Joint Committee on Salaries and Allowances of Members of Parliament*

The Joint Committee on Salaries and Allowances of Members of Parliament is a statutory Committee constituted under the Salary, Allowances

and Pension of Members of Parliament Act, 1954, for the purpose of making rules under that Act.<sup>707</sup> It consists of five members from the Rajya Sabha nominated by the Chairman and ten members from the Lok Sabha nominated by the Speaker. A member of the Joint Committee holds office for one year from the date of his nomination and any casual vacancy in the Joint Committee is filled by nomination by the Chairman or the Speaker, as the case may be.<sup>708</sup> The Joint Committee elects its own Chairman.<sup>709</sup> The Committee has also been empowered to regulate its procedure.<sup>710</sup> The Committee does not present any report.

The function of the Committee is to make, after consultation with the Central Government, rules to provide for matters like medical, housing, telephone facilities, etc. and generally for regulating the payment of various allowances to which Members of Parliament are entitled under the Act.<sup>711</sup> The rules made by the Committee do not take effect until they are approved and confirmed by the Presiding Officers of both the Houses and are published in the Gazette.<sup>712</sup>

*(b) Joint Parliamentary Committee on Official Language*

The Official Language Committee has been set up by a resolution adopted in both Houses of Parliament in 1975.<sup>713</sup> The Committee consists of thirty members—twenty from the Lok Sabha and ten from the Rajya Sabha—elected by the system of proportional representation by means of the single transferable vote. The Committee reviews the progress made in the use of Hindi for the official purposes of the Union and submits a report to the President making recommendations thereon.<sup>714</sup> The motion for election of the Committee was adopted on 22 January 1976 and members of the Rajya Sabha were elected to serve on the Committee on 29 January 1976.<sup>715</sup>

*(c) Ad hoc Joint Committee on Judges (Inquiry) Rules, 1969*

A Joint Committee of both Houses of Parliament was constituted for making rules under the Judges (Inquiry) Act, 1968. It consisted of ten members from the Lok Sabha and five from the Rajya Sabha, nominated by the respective Presiding Officers.<sup>716</sup>

*(d) Ad hoc Consultative Committees under State Legislature (Delegation of Powers) Acts*

Whenever power is conferred on the President to make laws under a Proclamation in respect of a State, under article 356 of the Constitution, Parliament enacts a State Legislature (Delegation of Powers) Act for the purpose. It is provided in that Act that the President may whenever he considers it practicable to do so, consult a Committee of Members of

Parliament to be nominated by the respective Presiding Officers. On a number of occasions such Committees have been constituted.<sup>717</sup>

### VII. *Ad hoc Committees*

Apart from the Committees mentioned above, Committees may be set up on *ad hoc* basis to enquire into and report on specific matters or subjects. Such Committees may be constituted either (i) by the House on a motion moved and adopted, or (ii) by the Chairman on the basis of the desire or consensus in the House, or (iii) jointly by both the Houses on the motion adopted by one House and concurred in by the other, or (iv) by the Presiding Officers of both the Houses in consultation with each other. They are called *ad hoc* Committees because they become *functus officio* after presentation of the report or conclusion of the assigned function or by efflux of time. *Ad hoc* Committees have been set up from time to time by all these modes as may be seen from the instances given below:

- (i) *Committee constituted by Rajya Sabha:* The Rajya Sabha adopted a motion moved by the Minister of State in the Ministry of Home Affairs, Department of Personnel and Department of Parliamentary Affairs to appoint a Committee consisting of ten members to investigate the conduct and activities of a member of the Rajya Sabha (Subramanian Swamy's case).<sup>718</sup>
- (ii) *Committees appointed by the Chairman:* The Chairman appointed a Railway Wagons Committee to examine all the aspects relating to procurement of railway wagons, as desired by the House in the course of interpellations on a question on the subject, another Committee on the problems of cotton growers which was a subject-matter of a calling attention on 26 July 1996 and yet another Committee on the functioning of Wakf Boards on which also there was a calling attention on 9 September 1996.<sup>719</sup>
- (iii) *Joint Committees appointed by motions:* Some of the Committees set up under this heading are as follows:
  - (1) Committees on Draft Second Five Year Plan (1956) were constituted on a motion adopted by the Lok Sabha on 11 May 1956 and concurred in by the Rajya Sabha on 14 May 1956.<sup>720</sup>
  - (2) A Committee of Parliament on Official Language was constituted on a Government motion under article 344(4) of the Constitution to examine the recommendations of the Official Language Commission and to report to the President its opinion thereon under article 344(5)<sup>721</sup>

- (3) A Joint Committee on Amendments to Election Law (1971) was appointed in pursuance of a motion adopted by the Lok Sabha on 22 June 1971 and concurred in by the Rajya Sabha on 25 June 1971.<sup>722</sup>
- (4) A Joint Committee to examine the working of the Dowry Prohibition Act, 1961 (1980), was constituted in pursuance of a motion adopted by the Lok Sabha on 19 December 1980 and concurred in by the Rajya Sabha on 24 December 1980.<sup>723</sup>
- (5) A Joint Parliamentary Committee (JPC) consisting of thirty members— twenty from the Lok Sabha and ten from the Rajya Sabha—was constituted (1987) to enquire into Bofors Contract in pursuance of a motion adopted by the Lok Sabha on 6 August 1987 and concurred in by the Rajya Sabha on 12 August 1987.<sup>724</sup>

The report of this Committee was discussed in the House on 11 and 12 May 1988 by way of a short duration discussion. When points were raised regarding the modality of discussing such a report, the Deputy Chairman observed:

It is a Parliamentary Committee report. Such reports are generally placed before the House and are not discussed. However, taking into consideration the importance of the subject-matter, as an exception, we are taking up this report for discussion and it was thought more appropriate to discuss it by way of a short duration discussion than by way of a motion.<sup>725</sup>

- (6) A Joint Parliamentary Committee on Securities Scam, consisting of thirty members—twenty from the Lok Sabha and ten from the Rajya Sabha—was constituted (1992) in pursuance of a motion adopted by the Lok Sabha on 6 August 1992, and concurred in by the Rajya Sabha on 7 August 1992.<sup>726</sup> The report of this Committee was also discussed by way of a short duration discussion on 29 and 30 December 1993.
- (7) A Joint Parliamentary Committee (JPC) on Stock Market Scam and matters relating thereto, consisting of thirty members—twenty from the Lok Sabha and ten from Rajya Sabha—was constituted (2001) in pursuance of a motion adopted by the Lok Sabha on 26 April 2001, and concurred in by the Rajya Sabha on the same date.<sup>727</sup>
- (8) A Joint Parliamentary Committee (JPC) to examine matters relating to Allocation and Pricing of Telecom Licenses and

Spectrum—Twenty from the Lok Sabha and ten from Rajya Sabha—was constituted (2011) in pursuance of a motion adopted by the Lok Sabha on 24 February 2011 and concurred in by the Rajya Sabha on 1 March 2011.<sup>728</sup>

- (9) On the 27 February 2013 a motion was moved in the Rajya Sabha that a Joint Committee of both the Houses consisting of 30 members, 10 members from Rajya Sabha and 20 members from Lok Sabha, be appointed to inquire into the Allegations of Payment of Bribes in the Acquisition of VVIP Helicopters by the Ministry of Defence from M/s Augusta Westland and the Role of Alleged Middlemen in the Transaction and it was adopted by the House. The message from Rajya Sabha was reported in the Lok Sabha on the 4 March 2013. However, the Joint Committee was not constituted.<sup>729</sup>
- (iv) *Joint Committees appointed by Presiding Officers:* The following Committees were appointed by the Presiding Officers from time to time in consultation with each other:
  - (1) Committee on inscriptions in the Parliament House.<sup>730</sup>
  - (2) Committee to fix Hindi equivalents for parliamentary, legal and administrative terms.<sup>731</sup>
  - (3) Committees on Draft Third, Fourth and Fifth Five Year Plans.<sup>732</sup>
  - (4) Committees on construction of additional parliamentary building and portraits and statues in Parliament House.<sup>733</sup>
  - (5) Committee to examine the working of catering establishments in the Parliament House.<sup>734</sup>
  - (6) Committee of Members of Parliament to bring about reconciliation between Nirankaris and Akalis (1983).
- Originally, the Committee to be set up by the Speaker was to consist of nine Members of Parliament as per the announcement made in the Lok Sabha on 26 August 1983. Subsequently, it was decided to broad-base the Committee and make it a Joint Committee of twenty-two members—fifteen from the Lok Sabha and seven from the Rajya Sabha. The Committee was to function under the Rajya Sabha rules. The Committee Chairman was to be elected by the Committee itself.<sup>735</sup> The Committee became defunct on dissolution of the Lok Sabha.
- (7) Parliamentary Committee on catering in Parliament Complex (1993).<sup>736</sup>

- (8) Committee on Food Management in Parliament House Complex (2009) was constituted to *inter alia* consider the revision of rates of eatables served at Railway Catering Units located in Parliament House Complex and the level of subsidy to be given for running these Units. It consisted of fifteen members, ten from the Lok Sabha and five from the Rajya Sabha.<sup>737</sup>
- (9) Parliamentary Committee on installation of portraits/statues of national leaders in Parliament Complex (February 1993). The Secretaries-General of both the Houses were specifically named to be members of the Committee and the Committee was empowered to invite any other member of the Lok Sabha or the Rajya Sabha or experts for consultation. The Deputy Speaker was the Chairman of the Committee.<sup>738</sup>
- (10) A Joint Committee to suggest Facilities and Remuneration for Members of Parliament (1993). The Committee was empowered to (i) call for information; (ii) examine witnesses; (iii) obtain expert advice; and (iv) undertake any other measures. The Committee was directed to submit its report as early as possible and was conferred the status and facilities enjoyed by other Parliamentary Committees.<sup>739</sup> The Committee submitted a report on 23 December 1993.<sup>740</sup>
- (11) An *ad hoc* Parliamentary Committee of the Houses was constituted, with the Speaker as its Chairman, to examine the demand for Punjabi Suba and to assist a Cabinet Committee in arriving at a satisfactory settlement of the question.<sup>741</sup> The report of the Committee was presented to Parliament.<sup>742</sup>
- (12) A Joint Parliamentary Committee, consisting of eleven members—seven members from the Lok Sabha and four members from the Rajya Sabha—was constituted to review the mechanism of fixing the retention price of the various qualities of fertilizers for different factories and to generally go into the functioning of the fertilizer industry.<sup>743</sup>
- (13) Committees of Parliament to advise the Presiding Officers on the changes desirable in the structure of pay and allowances, etc. applicable to officers and staff in the Lok Sabha and the Rajya Sabha Secretariats were constituted on three occasions.<sup>744</sup>
- (14) The Constitution (Eighty-first Amendment) Bill, 1996 (insertion of articles 330A and 332A), as introduced in the Lok Sabha, was referred to a Joint Committee, consisting of thirty-one members—ten from the Rajya Sabha and twenty-one from the Lok Sabha. The Committee was constituted by the Speaker and the Chairman in consultation with each other by nominating members thereon.<sup>745</sup>

- (15) Joint Parliamentary Committee on Security in Parliament House Complex (2004), consisting of eleven members – eight from the Lok Sabha and three from the Rajya Sabha – was constituted *inter alia* to review the progress of work relating to installation of security equipment in Parliament House Complex, particularly in the context of the recommendations made by the JPC on Security from time to time and consider the security aspects pending for consideration/decision.
- (16) JPC on Pesticide Residues in and Safety Standard for Soft Drinks, Fruit Juice and other Beverages (2004) was constituted to report whether the recent findings of Centre of Science and Environment (CSE) regarding pesticide residues in soft drinks are correct or not and to suggest criteria for evolving suitable safety standards for soft drinks, fruit juice and other beverages where water is the main constituent. The Committee consisted of fifteen members, ten from the Lok Sabha and five from the Rajya Sabha.<sup>746</sup>
- (17) A Joint Parliamentary Committee on Maintenance of Heritage Character and Development of Parliament House Complex, consisting of nine members—six from the Lok Sabha and three from the Rajya Sabha with Speaker as the Chairperson—was constituted in 2009 to formulate policies, guidelines and programmes on conservation, restoration, rehabilitation and maintenance works in Parliament House Complex, etc. Deputy Chairman, Rajya Sabha, Union Ministers of Urban Development and Home Affairs are the *ex officio* members while the Minister of Parliamentary Affairs is the special invitee to the Committee.<sup>747</sup>

### **VIII. Consultative Committees**

The Consultative Committees of Members of Parliament attached to the various Ministries have been functioning since 1969. The main objective of these Committees is informal consultation between the Government and the Members of Parliament on the policies and programmes of the Government and the manner of their implementation. The membership of these Committees is voluntary and is left to the choice of the members and the leaders of their parties. The maximum membership of a Committee may go up to forty. A Committee is, however, constituted with the minimum number of ten members. The Committees are chaired by the Ministers in-charge of the Ministries to which the Committees relate.

Meetings of the Committees are held both during the session and the inter-session period. The agenda of the Committee is formed on the basis

of items for discussion received from the members and suggestions of the Ministry concerned. No decisions are taken by these Committees. A unanimous recommendation made by the Consultative Committee may be accepted by the Government. In keeping with informal nature of discussion at the meetings, it is incumbent on the members as well as on the Government not to mention on the floor of the House anything that happens in these Committees.<sup>748</sup>

#### **IX. Government Committees**

There are a number of Committees, Councils, Boards, etc. (hereinafter referred to as Government Committees) constituted or set up by Government in pursuance of an Act of Parliament or a resolution, on which members of either House of Parliament are represented.<sup>749</sup> Broadly, the function of these Committees is to advise the Government on certain issues. The manner of representation— whether by election from amongst members or by nomination by the Chairman— and the term of office of the member elected/nominated are laid down in the statute/resolution under which the Committee is set up. Generally, members are nominated by the Chairman on the Committees on a request from the concerned Ministers/Ministries. After a member is nominated by the Chairman, his name is published in the Parliamentary Bulletin and communicated to the Ministry concerned.

There are many Government Committees enjoying statutory status to serve on which members of the Rajya Sabha are elected by the House in accordance with the system of proportional representation by means of the single transferable vote.<sup>750</sup> In such cases, motions are moved in the House for the purpose and the Chairman fixes a programme of election which includes date of nomination, withdrawal, election, etc. The programme is announced through the Bulletin. The result of the election is also published in the Parliamentary Bulletin. However, a convention has developed in the Rajya Sabha that the party/group to which membership of these bodies is to be allocated is decided by the Minister of Parliamentary Affairs, who is also the Chief Government Whip, in consultation with whips of other parties. The election is thus generally avoided. Only on few occasions does an election take place.

Whenever Ministries set up departmental Committees of advisory nature on any matter and desire to have a member nominated thereon, the Chairman of the Rajya Sabha is approached for permission. This practice or convention enables the Secretariat to refer such cases to the Joint Committee on Offices of Profit to examine the nature of the Committee in order to see that the membership of the Committees does not make the incumbent, holder of any office of profit and advise the Ministry/member accordingly.<sup>751</sup>

## NOTES AND REFERENCES

1. Bn. (II), 30.10.1986.
2. *Ibid.*, 25.5.1987.
3. *Ibid.*, 16.11.1992.
4. *Ibid.*, 26.7.1993.
5. *Ibid.*, 6.6.1994.
6. *Ibid.*, 7.8.1995 and 31.7.1996.
7. F. No. 3/93-T.
8. R. 30(2).
9. R. 217(2).
10. R. 30(1).
11. R. 30(2).
12. R. 30(3).
13. R. 30(4).
14. R. 30(5).
15. R. 31.
16. R. 32.
17. For instance, BAC mts., 1.6.1995.
18. R. 33(1).
19. R. 33(3).
20. BAC mts., 27.4.1995 (para.3).
21. R. 14.
22. BAC mts., 22.2.1965, 25.8.1965 and 1.8.1966.
23. *Ibid.*, 17.12.1992 and 10.12.2008.
24. *Ibid.*, 26.4.2007, 10.3.2011, 21.12.2011, 4.3.2012, 24.4.2012, 12.8.2013, 27.8.2013 and 6.9.2013.
25. *Ibid.*, 1.3.2007, 26.4.2007, 3.5.2007, 23.8.2007, 30.8.2007, 29.2.2008, 24.4.2008, 11.11.2010, 17.3.2011, 25.8.2011, 2.9.2011, 1.12.2011, 12.8.2013 and 23.8.2013.
26. *Ibid.*, 7.8.1995, 26.4.2007, 12.8.2010, 25.8.2011, 12.8.2013 and 6.9.2013.
27. *Ibid.*, 10.5.2012.
28. *Ibid.*, 31.7.1995, 26.2.1996, 25.7.1996 and 29.8.1996.
29. *Ibid.*, 23.3.1995, 7.3.1996, 11.7.1996, 18.7.1996 and 3.12.2009.
30. *Ibid.*, 30.3.1992, see also 11.8.1994, 5.5.2005 and 28.7.2006.
31. *Ibid.*, 11.11.2010, 21.2.2011 and 11.8.2011.
32. *Ibid.*, 7.8.1995, 16.8.1995, 7.12.1995 and 17.12.2009.
33. *Ibid.*, 14.3.1995, 23.3.1995, 27.4.1995 and 29.2.1996.
34. *Ibid.*, 18.5.1995.
35. *Ibid.*, 16.8.1995.
36. *Ibid.*, 23.7.2009.
37. *Ibid.*, 12.8.2010.
38. *Ibid.*, 10.12.2004 and 17.8.2005.
39. *Ibid.*, 27.4.1995.
40. *Ibid.*, 28.9.1964, 7.12.1964, 8.11.1965, 1.8.1966, 8.12.1967, 21.2.1968 and 25.11.1968.
41. *Ibid.*, 21.9.1964, 12.3.1965, 25.8.1965, 8.11.1965, 23.8.1966, 10.11.1966 and 26.7.1968.
42. *Ibid.*, 30.3.1995, 10.12.2009, 17.12.2009, 15.4.2010, 22.4.2010 and 26.8.2010.
43. *Ibid.*, 26.2.1996.
44. *Ibid.*, 1.6.1995.
45. *Ibid.*, 19.12.1991.
46. *Ibid.*, 14.8.1956, 16.11.1962, 2.6.1964, 3.12.1965, 6.5.1966, 5.8.1969, 13.3.1970, 20.7.1971, 3.5.2007 and 12.8.2010.
47. R.S. Deb., 8.3.1968, c. 3871-82.
48. BAC mts., 17.3.1986.
49. *Ibid.*, 14.3.1995.
50. *Ibid.*, 26.2.1996.
51. *Ibid.*, 20.3.1970, 24.4.1970, 16.6.1971, 2.4.1985 and 20.4.1987.

- 
52. BAC mts., 9.8.1985.
  53. *Ibid.*, 1.8.1986.
  54. *Ibid.*, 25.7.1991, 1.8.1991 and 12.8.1993.
  55. *Ibid.*, 10.7.1992.
  56. *Ibid.*, 13.10.1982 and 16.7.1991.
  57. *Ibid.*, 10.7.1992, 19.8.1993 and 30.11.2006.
  58. *Ibid.*, 5.5.1993, 30.11.2006 and 16.7.2009.
  59. *Ibid.*, 30.11.2006.
  60. *Ibid.*, 6.8.1992.
  61. *Ibid.*, 13.6.1977.
  62. *Ibid.*, 20.11.1991.
  63. *Ibid.*, 10.7.1992.
  64. *Ibid.*, 18.8.1994.
  65. *Ibid.*, 7.12.1994.
  66. *Ibid.*, 5.8.1993.
  67. *Ibid.*, 12.8.1993 and 19.8.1993.
  68. *Ibid.*, 7.12.1994.
  69. *Ibid.*, 19.11.2009.
  70. *Ibid.*, 12.3.1981.
  71. *Ibid.*, 25.3.1985.
  72. R. 34.
  73. R. 35.
  74. R. 36.
  75. R. 37.
  76. BAC mts., 6.8.1952.
  77. C.S. Deb., 7.8.1952, c. 3284-85.
  78. R.S. Deb., 14.4.1955, c. 4719-20.
  79. BAC mts., 23.8.1955, see also 21.9.1955. The BAC's recommendation is being notified in Bn. (II) since November 1959—*vide* Bn. (II), 27.11.1959.
  80. R.S. Deb., 29.8.1966, c. 4586-98.
  81. *Ibid.*, 8.3.1968, c. 3871-79.
  82. *Ibid.*, 25.11.1966, c. 2900-17.
  83. *Ibid.*, 24.3.1971, c. 9-19.
  84. *Ibid.*, 16.8.1974, c. 91.
  85. *Ibid.*, 8.12.1978, c. 211-30.
  86. BAC mts., 15.12.1978.
  87. 1 Rpt., COR, pp. 10-11, mts., 21.5.1971.
  88. BAC mts., 24.8.1966.
  89. *Ibid.*, 15.12.1978.
  90. R.S. Deb., 9.5.1958, c. 2129-33.
  91. Art. 350.
  92. Rs. 137 to 153.
  93. R. 137.
  94. R. 138(i).
  95. R. 138(ii).
  96. R. 138(iii).
  97. R. 138(iii)(a) to (d).
  98. R. 139(1).
  99. R. 143.
  100. R. 139(2) and (3).
  101. 6 Rpt., PC, 28.11.1955.
  102. R. 140.
  103. R. 141.
  104. R. 142.
  105. R. 144.
  106. Bn. (I), 5.12.1973; 41 Rpt., PC.

107. R. 146.
108. R. 145.
109. Bn. (II), 20.9.1954, 27.9.1954, 26.11.1954, 30.11.1954 and 3.12.1954, 1 Rpt. and 2 Rpt., PC (presented on 30.9.1954 and 6.12.1954, respectively).
110. Bn. (II), 27.9.1954, 1 Rpt., PC (presented on 30.9.1954).
111. *Ibid.*, 28.2.1955, 4 Rpt., PC (presented on 18.3.1955).
112. *Ibid.*, 19.4.1955, 5 Rpt., PC (presented on 19.4.1955).
113. *Ibid.*, 28.11.1955, 6 Rpt., PC (presented on 28.11.1955).
114. *Ibid.*, 7.5.1956, 30.7.1956, 22.8.1956 and 24.8.1956, 7 Rpt., PC, 8 Rpt., PC, 9 Rpt., PC, 10 Rpt., PC, 11 Rpt., PC (presented on 4.5.1956, 9.5.1956, 2.8.1956, 24.8.1956 and 25.8.1956, respectively).
115. *Ibid.*, 10.8.1959, 12 Rpt., PC (presented on 10.8.1959).
116. *Ibid.*, 20.4.1960, 13 Rpt., PC (presented on 22.4.1960).
117. *Ibid.*, 29.4.1963, 14 Rpt., PC (presented on 30.4.1963).
118. *Ibid.*, 9.9.1966, 17 Rpt., PC (presented on 7.11.1966).
119. *Ibid.*, 23.2.1953 and 27.4.1953.
120. R. 150.
121. R. 147(i).
122. Rpt. of the Committee on Draft Rules of Procedure.
123. R. 149.
124. R. 147(2).
125. R. 147(3).
126. R. 148.
127. 1, 2, 3 Rpts., PC, 17 Rpt., PC.
128. 5 Rpt., PC.
129. Rpt. of Committee on Draft Rules of Procedure.
130. R. 151(1).
131. R. 152(2).
132. 5 Rpt., PC (presented on 19.4.1955).
133. 7 Rpt., PC (presented on 4.5.1956).
134. 8 Rpt., PC (presented on 9.5.1956).
135. Direction of Chairman, R.S., 20.1.1999 published in Bn. (II), 28.1.1999.
136. Pamphlet on Rules and Directions relating to Committee on Petitions, Rajya Sabha Secretariat (June 1996), Preface, p. 3.
137. *Ibid.*, pp. 15-17.
138. R. 153.
139. R. 152(1).
140. 10 Rpt., PC (24.8.1956).
141. 11 Rpt., PC (25.8.1956).
142. 14 Rpt., PC (30.4.1963).
143. R. 152(2).
144. 7 Rpt., PC (4.5.1956) and 8 Rpt., PC (9.5.1956).
145. Bn. (II), 2.11.2011.
146. F. No. 5(12)/91-Com. II, F. No. 5(37)/94-Com. II and F. No. 5(45A)/91-Com.II.
147. R. 192(1).
148. R. 193(1).
149. R. 193(2).
150. R. 193(3).
151. C.S. Deb., 28.5.1952, c. 588.
152. *Ibid.*, 16.5.1953, c. 6119; 15.5.1954, c. 6538; and 4.5.1955, c. 6784.
153. R.S. Deb., 22.5.1957, c. 1103.
154. *Ibid.*, 22.4.1958, c. 49.
155. *Ibid.*, 19.5.1969, c. 3720.
156. R. 192(3).
157. R. 192(2).
158. R. 194.

159. R. 191.
160. R. 203.
161. R. 195(1).
162. 19 Rpt., COP.
163. R. 195(2).
164. Rpt. of Jt. Sitting of Committee of Privileges of Lok Sabha and Rajya Sabha (1954).
165. 25 Rpt., COP (para. 4).
166. 27 Rpt., COP (para. 3).
167. 33 Rpt., COP.
168. 26 Rpt., COP (para. 2).
169. R.S. Deb., 10.5.1959, c. 142-43; *and* F. No. 35/27/78-L.
170. Members of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985, Rules 2(b) *and* 7(4).
171. R. 196(1).
172. *Ibid.*, 1<sup>st</sup> Proviso.
173. *Ibid.*, 2<sup>nd</sup> Proviso.
174. R. 196(2).
175. R. 196(3).
176. R. 197(1).
177. For instance, *see* 29 Rpt., COP, p. 9.
178. 2 Rpt., COP, p. 4.
179. 12 Rpt., COP, p. 15.
180. 27 Rpt., COP, p. 10.
181. 3 Rpt., 15 Rpt., 18 Rpt., *and* 21 Rpt., COP.
182. 30 Rpt., COP (p. 5) *and* 34 Rpt., COP (para. 7).
183. 16 Rpt., COP.
184. 23, 24, 26, 28, 31 *and* 35 Rpts., COP.
185. 1, 2 *and* 3 Rpts., COP.
186. 8 Rpt., COP, p. 10.
187. 19 Rpt., COP, pp. 16-17.
188. 27 Rpt., COP, App. II.
189. 25 Rpt., COP, App. IV.
190. Members of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985, Rule 7(7).
191. R. 197(1).
192. 11 Rpt., COP.
193. 13 Rpt., COP, App. IV.
194. 14 Rpt., COP, App. III.
195. R. 197(1), 1<sup>st</sup> Proviso.
196. R. 197(1), 2<sup>nd</sup> Proviso.
197. 5 Rpt., COP.
198. 8 Rpt., COP.
199. 11 Rpt., COP.
200. R.S. Deb., 17.12.1970, c. 123-26.
201. *Ibid.*, 7.4.1971, c. 84-85.
202. 13 Rpt., COP.
203. R. 197(3).
204. *Ibid.*, Proviso.
205. 11, 21, 25, 28 to 32 *and* 34 to 36 Rpts., COP.
206. 8 Rpt., COP, para. 6.
207. 16 Rpt., COP, para. 7.
208. 19 Rpt., COP, pp. 8-11.
209. R. 198.
210. R. 199.
211. R. 200.
212. *Ibid.*, Proviso.

213. R. 201.
214. 1 Rpt., COP, adopted on 2.5.1958.
215. R.S. Deb., 6.12.1954, c. 866-67.
216. *Ibid.*, 20.12.1968, c. 5032-75.
217. *Digest*, pp. 218-19.
218. *Ibid.*, pp. 421-25.
219. R.S. Deb., 30.3.1993, c. 300-09.
220. 4 Rpt., COP (*Organiser case*), *Digest*, pp. 598-99; 3 Rpt., COP (*Thought case*), *Digest* p. 416; 6 Rpt., COP (*Aina case*), *Digest*, pp. 601-02; 7 Rpt., COP (*Ram Gopal Gupta case*), *Digest*, p. 604; 8 Rpt., COP (*Thackeray case*), *Digest*, p. 600.
221. 11, 14 and 32 Rpts., COP.
222. 6, 17, 26 Rpts., COP.
223. 22, 24 and 25 Rpts., COP.
224. 9, 18, 28, 29, 31 and 35 Rpts., COP.
225. 2 Rpt. and 7 Rpt., COP.
226. 3 Rpt., COP.
227. 15 Rpt., COP.
228. 27 Rpt., COP.
229. 10 Rpt. and 22 Rpt., COP.
230. R. 202.
231. 23 Rpt., COP, para. 3.
232. 27 Rpt., COP, para. 3.
233. F. No. 46/89-T (Vol. IV).
234. 1 Rpt., EC (presented on 8.12.1998, adopted on 15.12.1999).
235. Bn. (II), 5.3.1997; Rules relating to the Committee on Ethics came into force w.e.f. 20.7.2004.
236. R. 287.
237. R. 288.
238. R. 289.
239. R. 290.
240. R. 303.
241. R. 293.
242. 4 Rpt. EC.
243. R. 295.
244. R. 296.
245. R. 297.
246. R. 298.
247. R. 299.
248. R. 300.
249. R. 301.
250. R. 302.
251. Bn. (II), 23.12.2005.
252. 8 Rpt., EC (presented on 24.2.2006), p. 20.
253. *Ibid.*, p. 29.
254. Bn. (II), 21.3.2006.
255. R. 204.
256. Bn. (II), 30.9.1964.
257. R. 205(1).
258. R. 205(2).
259. R. 205(3).
260. R. 206(1).
261. R. 206(1), *Proviso*.
262. R. 206(2).
263. R. 206(3).
264. R. 207(1).
265. R. 207(2).

266. R. 208(1).
267. *Ibid.*, *Proviso*.
268. R. 208(2).
269. R. 208(3).
270. R. 209.
271. 14 Rpt., COSL, p. 5.
272. 22 Rpt., COSL, para. 17.
273. 17 Rpt., COSL, pp. 15-16.
274. 13 Rpt., COSL, p. 11; 102 Rpt., COSL, p. 9; 23 Rpt., COSL, para. 9 *and* 29. Rpt., COSL, para. 17.
275. 8 Rpt., COSL, p. 7.
276. 14 Rpt., COSL, p. 32.
277. 15 Rpt., COSL, para. 101; 16 Rpt., COSL, para. 32; *see also* 22 Rpt., COSL, para. 49-50, 26 Rpt., COSL, para. 20-22 *and* 39 Rpt., COSL, para. 56-72.
278. 212 Rpt., COSL, para 52.
279. 15 Rpt., COSL, p. 4.
280. 10 Rpt., COSL, pp. 1-5.
281. 15 Rpt., COSL, p. 28.
282. For instance, *see* 10, 14, 23, 24, 39, 41, 44, 57, 59, 72 *and* 73 Rpts., COSL.
283. For instance, *see* 1, 2 *and* 4 Rpts., COSL.
284. For instance, *see* 19 *and* 102 Rpts., COSL.
285. 192 Rpt., COSL, para. 2(xiv).
286. 212 Rpt., COSL, para. 15.
287. 189 Rpt., COSL, para. 2(vi).
288. 189 Rpt., COSL, para. 2(xii).
289. Minutes of the 24th meeting of the Committee, 201 Rpt., COSL.
290. 212 Rpt., COSL, para. 62.
291. *Ibid.*, para. 66.
292. 19 Rpt., COSL, p. 14, 39 *and* 16 Rpt., COSL, p. 9.
293. 15 Rpt., COSL, p. 9 *and* 16 Rpt., COSL, p. 4.
294. 19 Rpt., COSL, p. 7, 20 Rpt., COSL, pp. 8-9 *and* 96 Rpt., COSL, p. 13; 27 Rpt., COSL, para. 10.
295. 19 Rpt., COSL, p. 11.
296. 18 Rpt., COSL, p. 3 *and* 19 Rpt., COSL, p. 28.
297. 15 Rpt., COSL, p. 23.
298. For instance, *see* 20, 26 *and* 27 Rpts., COSL.
299. 212 Rpt., COSL, para. 31-33.
300. *Ibid.*, para. 21.
301. *Ibid.*, para. 58.
302. *Ibid.*, para. 70(v).
303. *Ibid.*, para. 70(i).
304. 1 Rpt., COSL, p. 1.
305. *Ibid.*, *see also* Bn. (II), 10.4.1984.
306. 5 Rpt., COSL, p. 2.
307. *Ibid.*, pp. 3-6.
308. 41 Rpt., COSL, para. 5-11.
309. 97 Rpt., COSL.
310. 109 Rpt., COSL, pp. 9-11.
311. 41 Rpt., COSL, para. 11.
312. 64 Rpt., COSL, para. 2 to 2.18.
313. 1 Rpt., COSL, pp. 6-7.
314. For instance, Kerala State Legislature (Delegation of Powers) Act, 1965, s. 3.
315. R. 212.
316. 1 Rpt., COSL mts., 28.11.1964.
317. 101 Rpt., COSL, pp. 16-24; 104 Rpt., COSL, pp. 26-27 *and* 106 Rpt., COSL, p. 5, *see also* 81 to 83 *and* 87 Rpts., COSL *and* 45 Rpt., COSL.

- 
318. 50 Rpt., COSL.
319. F. No., 5(9)/99-Com.I.
320. 10 Rpt., COSL, pp. 1-5 *and* 21 Rpt., COSL, para. 12-15.
321. 16 Rpt., COSL, p. 1 *and* 19 Rpt., COSL, pp. 2-4.
322. 107 Rpt., COSL, Ann. I-IV *and* 108 Rpt., COSL, Ann. I and II.
323. R. 210(1).
324. R. 210(2).
325. COSL mts. of meeting of 11.12.2000.
326. R. 211.
327. 13 Rpt., COSL, para. 31 *and* 32.
328. 9 Rpt., COSL, para. 48; 60 Rpt. COSL, para. 7.1 *and* 102 Rpt., COSL, para. 201.
329. For instance, *see* 9, 26 to 28, 30, 39, 45 to 47 *and* 49 Rpts., COSL.
330. 6 Rpt., COSL, para. 8.
331. 1 Rpt., COSL, para. 22-23.
332. *Ibid.*, para. 30-32.
333. 39 Rpt., COSL, Ministry of Home Affairs circular dated 24.1.1980.
334. 131 Rpt., COSL, para. 7.
335. 6 Rpt., COSL, para. 19.
336. 10 Rpt., COSL, para. 57; For background, *see* 5 Rpt., COSL, para. 20-25 *and* 9 Rpt., COSL, para. 34-39.
337. 82 Rpt., COSL, para. 4.31.
338. 15 Rpt., COSL, para. 101.
339. 81 Rpt., COSL, para. 4.12.
340. 86 Rpt., COSL, para. 2.21.
341. 201 Rpt., COSL, para. 3.
342. *Ibid.*
343. 5 Rpt., COSL, para. 24 *and* 25.
344. Minutes of the 24th meeting of the Committee *and* 201 Rpt., COSL.
345. 10 Rpt., COSL, para. 57-58.
346. F. No. RS 15(i)/2011-COSL.
347. F. No. RS 15(i)/2010-COSL.
348. F. No. RS 15(3)/2011-12-COSL.
349. R.S. Deb., 5.8.1952, c. 2947.
350. 1 Rpt., COR, p. 2.
351. R. 212 B(1).
352. R. 212 B(2).
353. B. 212 B(3).
354. R. 212 D(1).
355. R. 212 C(1).
356. *Ibid.*, *Proviso*.
357. R. 212 C(2).
358. R. 212 C(3).
359. R. 212 D(2).
360. R. 212 A.
361. R. 212 E(1).
362. *Ibid.*, *Proviso*.
363. 41 Rpt., CGA, p. 10.
364. R. 212 E(2).
365. R. 212 E(3).
366. 1 Rpt., CGA, App. I.
367. R. 212(O).
368. R.S. Deb., 18.3.1981, c. 205-08.
369. 1 Rpt., CGA, para. 6 *and* 2 Rpt., CGA, para. 3.1.
370. 31 Rpt., CGA, para. 7.
371. 52 Rpt., CGA, p. 4.
372. 26 Rpt., CGA, para. 9.

- 
373. 67 Rpt., CGA, para. 2.  
374. *Ibid.*  
375. *Ibid.*, para. 11.  
376. 25 Rpt., CGA, para. 10 and 31 Rpt., CGA, para. 6.  
377. 40 Rpt., CGA, para. 4.  
378. 4 Rpt., CGA, para. 4 and 5 Rpt., CGA, para. 4.11.  
379. 52 Rpt., CGA, p. 10.  
380. 27 Rpt., CGA, pp. 2-3 (presented on 15.3.1985).  
381. COR mts. of meetings of 27.1.1986 and 23.8.1989.  
382. 1 Rpt., CGA, App. IV.  
383. 2 Rpt., COR, p. 3.  
384. *Ibid.*, mts., 13.9.1978, p. 23.  
385. *Ibid.*, mts., 24.1.1979, p. 25.  
386. LoB for 31.3.1980 and 11.12.1980.  
387. R.S. Deb., 22.4.1981, c. 192.  
388. Bn. (II), 15.1.1982.  
389. *Ibid.*, 3.3.1982.  
390. R. 212 H(1).  
391. R. 212 I(1).  
392. R. 212 I(2).  
393. R. 212 I(3).  
394. R. 212 K(1).  
395. R. 212 J(1).  
396. R. 212 J(1), *Proviso*.  
397. R. 212 J(2).  
398. R. 212 J(3).  
399. R. 212 K(2).  
400. R. 212 H(2).  
401. R. 212 H(3).  
402. R.S. Deb., 28.3.1988, c. 254-57.  
403. 54 Rpt., COPLOT (presented on 11.3.1996).  
404. R. 212 L(1).  
405. R. 212 L(1), *Proviso*.  
406. R. 212 L(2).  
407. R. 212 L(3).  
408. R. 212 N.  
409. R. 212 M.  
410. R. 212 (O).  
411. 1 Rpt., COPLOT, para. 26.  
412. *Ibid.*, para. 27.  
413. *Ibid.*, para. 28.  
414. *Ibid.*, para. 32.  
415. *Ibid.*, para. 33.  
416. *Ibid.*, para. 34.  
417. *Ibid.*, para. 35.  
418. COPLOT mts., 15.2.1984.  
419. 22 Rpt., COPLOT, para. 3  
420. 21 Rpt., COPLOT, para. 3.17.  
421. 51 Rpt., COPLOT, para. 5.30.  
422. 4 Rpt., COR, p. 2.  
423. R. 212 P.  
424. R. 212 Q(1).  
425. R. 212 Q(2).  
426. R. 212 Q(3).  
427. R. 212 S(1).  
428. R. 212 R(1).

429. R. 212 R(2).  
430. R. 212 R(3).  
431. R. 212 S(2).  
432. R. 212 U.  
433. R. 212 T(1).  
434. R. 212 T(1), *Proviso*.  
435. R. 212 T(2).  
436. R. 212 T(3).  
437. R. 212 W.  
438. Rpt., HC. p.1.  
439. R. 212 V.  
440. 1 Rpt., HC (presented on 7.8.1986); 2 Rpt., HC (presented on 29.12.1993); 3 Rpt., HC (presented on 22.12.1995); 4 Rpt., HC (presented on 14.3.1997); 5 Rpt., HC (presented on 7.3.2000); 6 Rpt., HC (Presented on 9.8.2001); 7 Rpt., HC (Presented on 7.3.2002); 8 Rpt., HC (presented on 12.8.2002); 9 Rpt., HC (presented on 18.8.2003); 10 Rpt., HC (presented on 18.8.2003); and 11 Rpt., HC (presented on 18.12.2003).  
441. Art. 118(1).  
442. Art. 118(2).  
443. R.S. Deb., 16.5.1952, c. 44-45; Not. No. II-CS/52, 16.5.1952; and Gaz. of India, Pt. I, Sec. 1, pp. 1347-49.  
444. Not. No. CS/3/52-L, 11.7.1952; Gaz. of India, Pt. I, Sec. 1, pp. 1761-62.  
445. R.S. Deb., 4.8.1952, c. 2888-89; Not. No. CS/3/62-L; and Gaz. of India, Pt. I, Sec. 1, p. 1849.  
446. Not. No. CS/3/52-L, 12.9.1952 and Gaz. of India, Pt. I, Sec. 1., p. 436.  
447. Not. No. CS/3/53-L, 23.1.1953 (refer Bn.(II), 12.2.1953) and Gaz. of India, Pt. I, Sec. 1, p. 36.  
448. F. No. CS/3/1/54-L.  
449. Rpt. of Committee on Draft Rules of Procedure, para. 1, App. II.  
450. Not. No. RS 13/1/63-L(2), 1.7.1964, Published in Gaz. of India, Ext., Pt. I, Sec. 1 and Bn. (II), 1.7.1964.  
451. R. 217(1).  
452. R. 217(2).  
453. R. 217(3).  
454. R. 217(4).  
455. R. 217(5).  
456. R. 217(6).  
457. R. 218(1).  
458. R. 218(2).  
459. R. 216.  
460. 2 Rpt., COR, p. 1.  
461. 1, 2, 3 and 4 Rpts., COR, para. 1 of each.  
462. 6 Rpt., COR, para. 2.  
463. R. 219.  
464. R.S. Deb., 14.2.1995, c. 436.  
465. R. 220(1).  
466. R. 220(2).  
467. R. 220(3).  
468. R. 220(4).  
469. R.S. Deb., 15.11.1973, c. 153-54.  
470. Bn. (II), 1.7.1972.  
471. *Ibid.*, 15.1.1982.  
472. *Ibid.*, 1.7.1986.  
473. *Ibid.*, 30.3.1993.  
474. *Ibid.*, 12.6.1995.  
475. *Ibid.*, 15.12.2006.  
476. *Ibid.*, 3.2.2010.

- 
477. Bn. (II), 26.11.2014.  
478. GPC mts., 7.3.1989.  
479. *Ibid.*, 1.9.1972.  
480. *Ibid.*  
481. *Ibid.*, 24.8.1973.  
482. GPC mts., 8.5.1974.  
483. *Ibid.*  
484. *Ibid.*, 21.3.1975.  
485. *Ibid.*, 12.8.1985, 26.8.1985, 29.8.1985 and 12.12.1985.  
486. *Ibid.*, 17.8.1992 and 23.2.1993.  
487. *Ibid.*, 17.3.1994.  
488. *Ibid.*, 18.3.1994.  
489. *Ibid.*, 28.7.1971.  
490. *Ibid.*, 2.9.1976.  
491. *Ibid.*, 5.5.1988 and 11.8.1988.  
492. *Ibid.*, 23.11.1992.  
493. A Sub-Committee of the GPC was set up by Chairman, R.S. on 18.10.2003 to coordinate and supervise celebrations to commemorate the 200<sup>th</sup> Session.  
494. GPC mts., 1.9.1972.  
495. *Ibid.*, 21.3.1975.  
496. *Ibid.*  
497. *Ibid.*, 22.12.1978.  
498. *Ibid.*, 24.2.1981.  
499. *Ibid.*, 26.8.1981 and 5.5.1982.  
500. *Ibid.*, 5.5.1982.  
501. *Ibid.*  
502. *Ibid.*, 7.3.1989.  
503. *Ibid.*, 23.1.1985.  
504. *Ibid.*, 24.7.1985 and Bn. (II), 25.7.1985.  
505. *Ibid.*  
506. *Ibid.*, 30.4.1986.  
507. *Ibid.*, 11.8.1989.  
508. *Ibid.*  
509. *Ibid.*  
510. *Ibid.*, 7.3.1989 and 11.8.1989.  
511. *Ibid.*, 7.3.1989.  
512. *Ibid.*, 7.3.1989 and 11.8.1989.  
513. *Ibid.*, 7.3.1989, 14.2.1995 and 4.5.1995.  
514. *Ibid.*, 26.11.1991.  
515. *Ibid.*, 14.2.1995.  
516. *Ibid.*, 9.12.1998.  
517. *Ibid.*, 28.7.1999.  
518. *Ibid.*, 1.9.1972.  
519. *Ibid.*, 2.9.1976 and 2.5.1977.  
520. *Ibid.*, 23.1.1985.  
521. *Ibid.*, 5.5.1988.  
522. *Ibid.*, 23.2.1993.  
523. *Ibid.*  
524. Bn. (II), 9.3.1999.  
525. *Ibid.*, 6.12.2000.  
526. GPC mts., 4.3.2008.  
527. Bn. (II), 12.12.2008.  
528. GPC mts., 18.12.2008.  
529. Rs. 70, 71.  
530. R. 72(1).  
531. R. 72(2).

532. R.S. Deb., 4.8.1993, c. 304-12.  
533. *Ibid.*, 5.8.1993, c. 289-92.  
534. See Chapter-6.  
535. R. 87.  
536. L.S. Bn. (II), 27.12.92, 1.1.2016 and R.S. Bn. (II), 1.1.2016.  
537. R. 72(3).  
538. R. 73(1).  
539. R. 73(2).  
540. R. 73(3).  
541. R. 77.  
542. R. 74(1).  
543. R. 74(2).  
544. R. 74(3).  
545. R.S. Deb., 28.7.1989, c. 307.  
546. R. 75.  
547. R. 76.  
548. *Ibid.*, *Proviso*.  
549. R. 78.  
550. Rpt. of Jt. Committee, para. 8.  
551. *Ibid.*, para. 7.  
552. *Ibid.*, para. 10.  
553. *Ibid.*, para. 9.  
554. *Ibid.*, para. 8.  
555. R. 79.  
556. *Ibid.*, *Proviso*.  
557. R. 80.  
558. R. 81.  
559. *Ibid.*, *Proviso*. In connection with tours, see also Bn. (II), 16.4.1987, containing Chairman's Direction.  
560. For instance, Rpt. of Jt. Committee on the Indian Penal Code (Amendment) Bill, 1972 mts., 24.3.1975; Rpt. of Jt. Committee on the Prevention of Food Adulteration (Amendment) Bill, 1974, mts., 29.4.1975.  
561. For instance, Rpt. of Jt. Committee on the Plantations Labour (Amendment) Bill, 1973, mts., 7.10.1974.  
562. Rpt. of Select Committee, para. 4.  
563. Rpt. of Jt. Committee, para. 9, and mts., 21.11.1974.  
564. Rpt. of Select Committee, App. II.  
565. Rpt. of Jt. Committee mts., 25.10.1969.  
566. *Ibid.*, 27.9.1974.  
567. *Ibid.*, 5.11.1974.  
568. *Ibid.*, 12.10.1972.  
569. *Ibid.*, 22.9.1972.  
570. R. 84(1).  
571. *Ibid.*, 1<sup>st</sup> *Proviso*.  
572. Rpt. of Jt. Committee mts., 17.9.1968, pp. 79-80.  
573. R. 84(1), 2<sup>nd</sup> *Proviso*.  
574. R. 84(2).  
575. R. 84(3).  
576. B.G. Gujar, "Impact of Committees on Legislative Process in the Rajya Sabha" in the *Second Chamber*, New Delhi, National Publishing House (published for the Rajya Sabha Secretariat), p. 389.  
577. Rpt. of Jt. Committee mts., 14.9.1971 and 15.9.1971.  
578. Jt. Committee Evidence, Vol. 1, p. 46.  
579. R. 84(4).  
580. R. 85(1).  
581. R. 85(2) and (3).  
582. R. 85(4).

583. R. 85(5).
584. R. 86(1).
585. R. 86(2).
586. Rpt. of Jt. Committee mts., 20.2.1975.
587. *Ibid.*, 26.9.1975.
588. *Ibid.*, 17.9.1975.
589. *Ibid.*, para. 23.
590. *Ibid.*, 30.10.1972.
591. *Ibid.*, 10.11.1972.
592. *Ibid.*
593. Rpt. of Jt. Committee on the Mental Health Bill, 1981, para. 15; and Rpt. of Jt. Committee on the Prevention of Water Pollution Bill, 1969, para. 8.
594. R. 86(3).
595. *Ibid.*, *Proviso*.
596. R. 82(2).
597. See Chapter-21.
598. R. 83.
599. R. 87(1).
600. R. 87(2).
601. R. 88.
602. Rpt. of Jt. Committee mts., 30.10.1974, 1.11.1974 and 2.11.1974.
603. *Ibid.*, 7.2.1975, 10.2.1975 and 11.2.1975.
604. *Ibid.*, 4.10.1975, 6.10.1975, 21.10.1975 and 22.10.1975.
605. *Ibid.*, para. 12.
606. *Ibid.*, page (viii).
607. *Ibid.*, 7.2.1975.
608. *Ibid.*, pp. 2-3.
609. *Ibid.*, para. 13.
610. R. 89.
611. R. 90(1).
612. *Ibid.*, 1<sup>st</sup> *Proviso*.
613. *Ibid.*, 2<sup>nd</sup> *Proviso*.
614. *Ibid.*, 30.8.1954, c. 721-24.
615. *Ibid.*, 22.9.1954, c. 2989-91.
616. *Ibid.*, 24.9.1954, c. 3241-53.
617. *Ibid.*, 11.12.1974, c. 127.
618. Rpt. of Jt. Committee, para. 14.
619. *Ibid.*, para. 12.
620. R. 90(4).
621. R. 90(5).
622. R. 90(6).
623. R. 90 [7(i)].
624. R. 91(1).
625. Direction from the Chairman, Bn. (II), 25.1.1996.
626. R. 91(2).
627. R.S. Deb., 17.11.1969, c. 168-69.
628. *Ibid.*, 6.8.1982, c. 181-86.
629. R. 92.
630. Direction from the Chairman, *op. cit.*
631. L.S. COR, Rpts., 2nd and 4th (8th LS), July 1989.
632. Bn. (I), 19.7.1989 and 4.8.1989.
633. 5 Rpt., COR (presented on 19.8.1992).
634. GPC mts., 23.2.1993.
635. 6 Rpt., COR (presented on 24.3.1993).
636. V.S. Rama Devi, (ed.) *Department-related Parliamentary Standing Committees (RS) - An Overview*, New Delhi, Rajya Sabha Secretariat, 1995.

637. Third Sch. to Rules of Procedure.  
638. R. 268, *Proviso*.  
639. R. 269(1); Bn. (II), 20.7.2004.  
640. F. No. 52/1/94-L.  
641. R. 269(2).  
642. R. 269(3).  
643. R. 270(a).  
644. R. 272.  
645. Bn. (I), 18.3.2006, 27.7.2009, 14.3.2011 and 24.7.2014.  
646. R. 270(b).  
647. R. 273(a).  
648. For details see Chapter-21.  
649. For instance, Bn. (II), 9.6.1995 and 13.9.1995.  
650. R. 273(b).  
651. Bn. (II), 18.5.1995.  
652. *Ibid.*, 30.5.1995.  
653. Bn. (II), 10.6.1998.  
654. F. No. 6(1)/98-CS(HA), Chairman granted extension on 10.12.1998.  
655. Bn. (II), 7.12.1998.  
656. F. No. 6(6)/1998-CS(HA), Chairman granted extension on 10.12.1998.  
657. Bn. (II), 10.12.1998.  
658. F. No. 6(7)/1998-CS(HA), Chairman granted extension on 22.12.1998.  
659. R. 270(c).  
660. Bn. (II), 17.12.1993.  
661. R. 270(d).  
662. F. No. 12.1.93-S and T.  
663. R. 270, *Proviso*.  
664. R. 276.  
665. Committee on S & T, E & F mts., 7.12.1995, 7.3.1996, and F. No. 12.5.95-S and T.  
666. R. 274(1).  
667. R. 274(2).  
668. R. 274(3), *see also* R.S. Deb., 29.8.1996 and 30.8.1996, regarding controversy on a Minute of dissent not appeared to a report of the Committee on Industry.  
669. Bn. (II), 25.1.1996.  
670. *Ibid.*, 30.1.1996; and F. No. 2.4.94-T & T.  
671. Bn. (I), 28.2.1996.  
672. Bn. (II), 27.3.1996; Bn. (I), 29.8.1996.  
673. F. Nos. 3(1)/1/95-CS(HA), 3(2)/1/95-CS(HA) and 3(3)/1/95-CS(HA); Bn. (I), 27.8.1996.  
674. After 1996 Committee on Industry presented 16 Reports, Committee on Transport, Tourism & Culture presented 12 Reports, Committee on Home Affairs presented 13 Reports, Committee on Commerce presented 5 Reports, Committee on Science & Technology presented 8 Reports, Committee on Health and Family Welfare presented 3 Reports, Committee on Personnel, Public Grievances, Law & Justice presented 3 Reports and Committee on Human Resource Development presented 9 Reports to the Chairman, Rajya Sabha during inter-session period.  
675. R. 277.  
676. Committee on T & T mts., 14.7.1994.  
677. F. No. RS 9/2/2010 - Com. Sec. (S & T).  
678. R. 275.  
679. Bn. (II), 8.12.2000.  
680. LSR 309.  
681. R.S. Deb., 26.3.1968, c. 6492-97.  
682. For instance, Bn. (I), 15.3.1995.  
683. *Ibid.*, 28.3.1995.  
684. For instance, Bn. (II), 28.3.1995.  
685. *Ibid.*, 28.4.1995.

686. LSR. 308. For detailed working of the Committee, see Kaul & Shakdher, p. 854.
687. Bn. (II), 11.8.1966.
688. R.S. Deb., 27.8.1966, c. 4361-504.
689. Bn. (I), 11.8.1966.
690. *Ibid.*, 21.12.1954.
691. *Ibid.*, 19.5.1966.
692. LSR 312 B(1).
693. Bn. (I), 15.3.1995.
694. R.S. Deb., 26.3.1968, *op. cit.*
695. LSR. 312A. For detailed working of the Committee, see Kaul & Shakdher, p. 884.
696. Bn. (I), 24.9.1965.
697. For instance, see LS Bn. (I), 16.9.1991, RS Bn. (I), 17.9.1991 and F. No. 5/1/91-L.
698. For the first time, the Minister of Finance was not nominated as a member of the Railway Convention Committee (1989). After change of the Government at the Centre on 10 November 1990, however, the new Railways Minister was not nominated to the Committee and the former Railways Minister continued to be a member of the Committee. On constitution of Railway Convention Committee (1991), both the Railways and Finance Minister were not nominated as members of the Committee. However, both the Ministers of Railways and Finance were nominated to the Committee against subsequent vacancies. In the Railway Convention Committee (1996), only Minister of Railways was nominated to the Committee. In the Railway Convention Committee (1998), (1999), (2004) and (2009) neither of the two Ministers was nominated as member.
699. For instance, the 12 Rpt. of the Committee (which was final) was submitted on 12.3.1996 before the dissolution of the 10th Lok Sabha on 15.5.1996.
700. Bn. (I), 3.5.1995 and 9.5.1995.
701. *Ibid.*, 8.5.1959.
702. LSR. 331 B(1).
703. *Ibid.*, 331A. For detailed working of the Committee, see Kaul & Shakdher, p. 918.
704. Bn. (II), 21.12.2011.
705. For detailed working of the Committee, see Kaul & Shakdher, p. 917.
706. LSR 331P.
707. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 9(1).
708. *Ibid.*, s. 9(2A).
709. *Ibid.*, s. 9(2); For instance, see Bn. (II), 26.2.1996.
710. *Ibid.*
711. *Ibid.*, s. 9(3).
712. *Ibid.*, s. 9(4).
713. Bn. (I), 24.7.1975.
714. Official Languages Act, 1963, s. 4.
715. Bn. (II), 29.1.1976.
716. Judges (Inquiry) Act, 1968, s. 7; Bn. (II), 26.3.1969.
717. For instance, Bn. (II), 9.2.1996, in respect of Uttar Pradesh.
718. R.S. Deb., 2.9.1976, c. 8-38.
719. *Ibid.*, 2.8.1995; 9.8.1995; Bn. (II), 6.8.1996; and F. No. 44/3/96-L.
720. L.S. Deb., 11.5.1956, c. 7986-93; and R.S. Deb., 14.5.1956, c. 2023-28.
721. Bn. (I), 3.9.1957 and 11.9.1957.
722. L.S. Deb., 22.6.1971, c. 176-82; and R.S. Deb., 25.6.1971, c. 262-63.
723. *Ibid.*, 19.12.1980, c. 359-61; and R.S. Deb., 24.12.1980, c. 279-80.
724. *Ibid.*, 6.8.1987, c. 484-569; and R.S. Deb., 12.8.1987, c. 287-401.
725. R.S. Deb., 11.5.1988, c. 372.
726. L.S. Bn. (I), 6.8.1992; and R.S. Bn. (I), 7.8.1992.
727. Bn. (I), 26.4.2001; and Bn. (II), 27.4.2001.
728. Bn. (II), 11.3.2011.
729. Bn. (I), 27.2.2013; L.S. Bn. (I), 4.3.2013.
730. Bn. (II), 27.4.1956.
731. L.S. Bn. (II), 7.5.1956.

732. Bn. (II), 7.9.1960, 20.9.1966 and 18.12.1973, respectively.
733. Kaul & Shakdher, p. 658, fn. 34.
734. Bn. (II), 7.9.1973.
735. Bn. (I), 8.12.1983.
736. Bn. (II), 17.12.1993.
737. *Ibid.*, 15.10.2009.
738. *Ibid.*, 22.2.1993.
739. *Ibid.*, 8.6.1993.
740. Bn. (I), 23.12.1993.
741. Kaul & Shakdher, p. 770, fn. 9.
742. Bn. (I), 18.3.1966.
743. *Ibid.*, 20.11.1991.
744. *Ibid.*, 17.8.1973, 21.7.1986 and 20.10.1997.
745. Bn. (II), 7.10.1996.
746. Bn. (I), 22.8.2003.
747. Bn. (II), 15.12.2009.
748. For detailed functioning and guidelines, see Annual Report of the Ministry of Parliamentary Affairs, 1994-95, Chapter VI.
749. *Committees and other Bodies on which Rajya Sabha is Represented*—a brochure brought out by the Rajya Sabha Secretariat from time to time—contains a list of such Committees.
750. *Ibid.*
751. For instance, F. No. 4/7/94-Com. II and F. No. 4/10/95-Com. II.

## CHAPTER–26

### General Rules of Procedure

#### **Notices**

##### *General procedure*

**E**very matter proposed to be raised in the House by a member, whether it is in the form of a question, resolution, motion, Bill, amendment, or otherwise, requires notice. Every notice, required by the rules has to be given in writing addressed to the Secretary-General and signed by the member giving notice and has to be delivered at the Notice Office between 10.00 a.m. and 4.00 p.m.<sup>1</sup> every day except Saturday, Sunday or a public holiday.<sup>2</sup> Notices left or received after 4.00 p.m. on any open day, or left on any day when the Notice Office is closed are treated as given on the next open day<sup>3</sup> but subsequently modified for different classes of business as notified in Bulletin Part-II prior to the commencement of every session.<sup>4</sup>

Notices may be delivered by members personally or through messengers and can also be sent by post.

The Rules Committee was of the view that the notices/communications received through Fax should be treated as authentic notices/communications provided that they were signed and followed by written notices.<sup>5</sup> At the stage of adoption of the report, the House, however, did not accept the Committee's recommendation.<sup>6</sup>

For the convenience of members, in addition to the box kept outside the Notice Office, another box is kept at the Rajya Sabha Reception Counter in the main Reception Hall of the Parliament House, for enabling the personal staff of members to deposit notices of questions, motions, resolutions, etc. during the course of the working day. The box is opened twice a day at 10.00 a.m. and 2.00 p.m. on all working days. The notices deposited therein between 10.00 a.m. and 2.00 p.m. will be deemed to have been received in the Notice Office at 2.00 p.m. on that day and the notices deposited after 2.00 p.m. will be deemed to have been received in the Notice Office at 10.00 a.m. on the next working day. Members are also informed that a box is kept outside the Notice Office in the Parliament House for depositing notices after the office hours, which will be opened at 10.00 a.m. on the next working day and all notices deposited therein will be deemed to have been received at 10.00 a.m.

Zero Hour Notices can be dropped in the box between 9.30 a.m. and 10.00 a.m. and the Box is opened at 10.00 a.m. Instead of dropping the notices in the box, members can also send his/her staff to the Notice Office directly to submit the notice and record the exact time of the receipt of the notice.

In general, following procedure is applicable for receipt and onward transmission of notices: (i) in the Notice Office, a tray is kept for the receipt of the notices. Apart from this, notices can be delivered in the boxes kept outside Notice Office and Reception Office, after office hours and on closed holidays; (ii) upon receipt of notices in Notice Office, date, time and diary number is recorded immediately on each notice and the type of notice, name of the member and subject are entered in the Notice Office Diary Software, after which the diary number and time of receipt is generated by the computer; and (iii) after diarisation of notices in the computer software, they are sent to the concerned Branches immediately<sup>7</sup>.

Standard printed forms of notices for various purposes, such as amendments, motions, questions, calling attention, short duration discussion, special mention, etc. are kept in the Notice Office for the use of the members.

The time period of giving notice prescribed under the rules is generally insisted upon and motions or resolutions falling short of the stipulated time-frame are ordinarily not allowed to be moved. However, the rules prescribing the period of notices also allow the Chairman to waive the period of notices in appropriate cases and admit a particular matter with a shorter notice or even without notice.

In calculating the period of notice in regard to questions and resolutions, the day on which the notice has been received and the day on which the question is to be answered or the resolution is to be moved are excluded.

The principal notices required by the rules or under the direction of the Chairman and the period of notices are –

- (i) Question—fifteen clear days;<sup>8</sup> (ii) half-an-hour discussion—three days;<sup>9</sup> (iii) private members' resolution—intimation, two days before the draw of lot and text of the resolution, ten days of the draw of lot;<sup>10</sup> (iv) amendments to resolutions/motions—one day;<sup>11</sup> (v) motions for leave to introduce private members' Bills—one month;<sup>12</sup> (vi) amendments to Bills—one day;<sup>13</sup> (vii) special mention—5.00 p.m. on the preceding day of the proposed mention;<sup>14</sup> and (viii) motions in respect of certain Bills—two days.<sup>15</sup>

Notices of amendments to a Bill or a resolution may be given by a member in advance of the inclusion of the relevant item in the list of business.<sup>16</sup> Such amendments are circulated to members on the day preceding the day on which the relevant item is included in the list of business.

A member can give notices before making and subscribing an oath or affirmation and taking seat in the House. However, he cannot perform any other function as a member in the House like asking of a question or moving a resolution or introducing a Bill unless he has made and subscribed the oath or affirmation and taken his seat in the House.

Notices given earlier by a member who is suspended from the service of the House are not included in the list of business or lists of questions, amendments, etc. during the period of his suspension. Any notice given by him during that period is also not accepted.

The practice of raising matters of recent and urgent public importance by way of Zero Hour submissions has been regulated in the Rajya Sabha. The Chairman may permit such matters to be raised which are indicated in Bulletin Part-I as "Matters raised with permission". After laying of papers and other business of formal nature which is the first item of business to be taken up at 11.00 a.m., Zero Hour submissions are made by members subject to a maximum of fifteen (15) such matters. If the time permits, special mentions are taken up to 12.00 noon.<sup>17</sup> The special mention procedure for raising matters of public importance has been strengthened with incorporation of rules<sup>18</sup> to that effect.

#### *Circulation of notices*

The Secretary-General makes every effort to circulate to each member a copy of every notice or other paper which under the rules is required to be made available to the members.<sup>19</sup> The rules require the following papers/notices to be circulated to members by the Secretary-General; (i) summons of the session;<sup>20</sup> notice of election of the Deputy Chairman;<sup>21</sup> (iii) list of business;<sup>22</sup> and (iv) list of amendments to Bills/resolutions.<sup>23</sup> A notice or other paper is deemed to have been made available for the use of every member if a copy thereof is deposited in such manner and in such place as the Chairman may, from time to time, direct.<sup>24</sup>

#### *Chairman's power to amend a notice*

If in the opinion of the Chairman, any notice contains words, phrases or expressions which are argumentative, unparliamentary, ironical, irrelevant, verbose or otherwise inappropriate, he may, in his discretion, amend such notice before it is circulated.<sup>25</sup>

Notices of amendments which are not intelligible or which make a clause of the Bill to which they relate or the resolution or the motion unintelligible or with grammatical errors, are suitably edited in consultation with the members concerned, if necessary, before circulation to members.

#### *Lapsing of notices*

On the prorogation of the House, all pending notices, other than notices of intention to move for leave to introduce Bills, lapse and a fresh notice must be given if a member desires to raise the matter in the next session. However, the fresh notice is required of intention to move for leave to introduce a Bill in respect of which sanction or recommendation under the Constitution has been granted, if the sanction or recommendation has ceased to be operative.<sup>26</sup>

A member had given notice of a breach of privilege against a newspaper on 18 March 1963. The Rajya Sabha was prorogued on 20 March 1963. The member gave a fresh notice "if no action had already been taken on his previous notice." Thereafter, the matter was referred to the Committee of Privileges.<sup>27</sup>

Any business pending before a committee does not lapse by reason only of the prorogation of the House and the committee continues to function notwithstanding such prorogation.<sup>28</sup>

#### **Recommendation of the President**

Recommendation of the President is required for introduction in the Rajya Sabha of the Bills which relate to the formation of new States and alteration of areas, boundaries or names of the existing States<sup>29</sup> and Bills affecting taxation in which States are interested.<sup>30</sup> Recommendation of the President is also necessary for the consideration and passing of a Bill involving expenditure from the Consolidated Fund of India.<sup>31</sup>

Every recommendation of the President is communicated to the Secretary-General by the Minister concerned in writing, in the following terms:

The President having been informed of the subject-matter of the proposed Bill, motion, resolution or amendment accords his previous sanction to the introduction of the Bill or the moving of the amendment or recommends the introduction of the Bill or the moving of the motion, resolution or amendment in the Council or recommends to the Council the consideration of the Bill.<sup>32</sup>

Where a Bill having been passed by the Lok Sabha is transmitted to the Rajya Sabha, the Minister concerned forwards to the Secretariat also the necessary recommendation for consideration of the Bill as passed by

the Lok Sabha in the Rajya Sabha even though a similar recommendation had been obtained and sent earlier to the Lok Sabha when the Bill was pending there. In other words, a separate recommendation is required to be obtained in respect of a Bill for each House.<sup>33</sup>

### **Rules to be observed by members**

Whilst the House is sitting or while speaking in the House, members have to observe certain rules.<sup>34</sup> These have been described in Chapter-9 dealing with Rules of Conduct. However, amongst them the rule of *sub judice* is of particular significance in parliamentary procedure and needs, therefore, elaboration.

#### *Discussion on sub judice matters*

Members cannot refer to any matter of fact on which a judicial decision is pending<sup>35</sup>. Subject to the provisions of the Constitution and rules, there is freedom of speech in Parliament.<sup>36</sup> Certain restrictions on this freedom have, to a limited degree, been self-imposed. One such restriction is that discussions on matters pending adjudication before courts of law should be avoided on the floor of the House, so that courts function uninfluenced by anything said outside the ambit of trial in dealing with such matters. The question whether a particular matter is *sub judice* is decided by the Chairman on the facts and circumstances of each case.

Under the rules, any matter which is under adjudication by a court of law having jurisdiction in any part of India cannot be raised in the House in any form such as questions,<sup>37</sup> motions,<sup>38</sup> and resolutions.<sup>39</sup>

On 25 November 1986, a member wanted to raise a question with regard to the decision of the Court in Kerala. He said that Mr. Justice Sukumaran of the Kerala High Court in his verdict had stated that the Electricity Minister, Shri R. Balakrishna Pillai had violated his oath of office and his reappointment as a Minister of State was unconstitutional. The Chairman observed:

Now I must stop. The point is this, as I have understood the matter. The Kerala High Court has said that this has been referred to the Division Bench of Kerala High Court to advise them whether it has powers under article 226 of the Constitution on the matter raised. Therefore, it is again fully *sub judice* and no decision has been taken. I am afraid, I cannot allow this discussion. I therefore say, I rule this out.<sup>40</sup>

On 7 December 1970, a member called the attention of the Minister of Irrigation and Power to the reported protest by the Government of Maharashtra to the Central Government in allowing the Government of Andhra Pradesh to raise the height of the Nagarjun Sagar Dam by

fixing crest gates. Certain questions were put by some members, to which the Minister said that he would not be able to enter into a discussion about the matter as it was before the tribunal. When the member insisted on getting information from the Minister, the Deputy Chairman observed:

The hon'ble Minister has just now stated that all the questions that have been asked by Mr. Dharia or Mr. Raju refer to matters which are being referred to and will be decided by the tribunal and, therefore, the hon'ble Minister does not want to give any information as the proceedings before the tribunal may be prejudiced. Therefore, it would not be desirable to compel the hon'ble Minister to give information on the facts which are before the tribunal for consideration...<sup>41</sup>

On 22 July 2003, a member was permitted to raise the issue of withdrawal of charges by the CBI against highly placed accused. However, at the appointed time he rose to inquire about the motion that he had given to raise a discussion on the topic under rule 170. He said that notice had been given under rule 168 and the discussion could take place under rule 170. He further stated that in the motion he had submitted, he had mentioned that while discussing the matter he would not like to interfere with the functioning of the judiciary or any *sub judice* matter and that as per precedents which have been followed on earlier occasions, there was scope that even if a motion appeared partly to be *sub judice*, the part which was not *sub judice* could be discussed. In this regard, he cited earlier instances also. The discussion on the admissibility of the motion went on and members also participated in the procedural aspect raised by Shri Mukherjee. Other members also wanted to speak on the issue and as a result there were frequent interruptions. Finally, the Chairman clarified the rule position thus:

...the notice of motion received by me today has been given under rule 168 of the Rules of Procedure and Conduct of Business in the Council of States. I have examined the notice in the light of rule 169, which gives the conditions of admissibility for such a motion. Rule 169(viii) states, "it shall not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India". The Babri Masjid demolition case which has been mentioned in your notice is under adjudication in a court of law. Therefore, I cannot permit admission of the motion under rule 168.<sup>42</sup>

On 27 February 2006, a member sought to raise a *sub judice* matter concerning cash for questions scam and circulation of CDs involving a member of Rajya Sabha. However, the Chairman did not permit him to raise the issue until prior notice was given to the concerned member. The member, however, insisted on raising the matter. Another

member demanded to set up a commission of inquiry. Amidst interruptions some members further demanded to refer the matter to the Ethics Committee. Giving his ruling in this regard the Chairman said:

I want to ask the hon'ble members that when a matter is *sub judice* how can I refer the *sub judice* matter to the Ethics Committee. I cannot refer *sub judice* matter to the Ethics Committee.<sup>43</sup>

However, on one occasion the Chair allowed discussion on some aspects of *sub judice* matter by defining the scope within which it should be discussed.

On 12 December 1994, immediately after the papers were laid on the Table, Dr. Biplab Dasgupta raised a point regarding settlement of Babri Masjid issue. Prof. Vijay Kumar Malhotra also joined the issue and made certain observation. At this point Syed Sibtey Razi raised a point of order regarding the desirability of discussing a subject which was pending in the Allahabad High Court. Responding to that point of the order, the Deputy Chairman ruled:

"I would say that any matter which is pending before any court, which is *sub judice*, we do not take up in this House. As the Chairman Saheb has given permission to Dr. Biplab Dasgupta - I can read out the title which says 'Settlement of the Babri Masjid Issue' - we should limit ourselves to the topic. We should not go into the details of it. To talk about a settlement of any problem is permitted but let us not go into the details which may be bringing us into difficulties when the matter is pending in the court."<sup>44</sup>

The rule of *sub judice* does not apply to Bills.

An objection was taken that the Muslim Women (Protection of Rights on Divorce) Bill, 1986, could not be taken up for consideration in the House, as some cases of maintenance were pending in courts. The Chairman ruled:

...this is a sovereign body and it has the power to legislate on any matter, whether it is pending in a court or not.<sup>45</sup>

A Committee of Presiding Officers appointed to consider, *inter alia*, the scope of rule of *sub judice* has given the following guidelines which are illustrative but not exhaustive:

1. Freedom of speech is a primary right whereas rule of *sub judice* is a self-imposed restriction. So where need be, the latter must give way to the former.
2. Rule of *sub judice* has no application in privilege matters.

3. Rule of *sub judice* does not ordinarily apply to legislation.
4. Rule of *sub judice* should apply in regard to proceedings before civil and criminal courts and courts martial in any part of India and not ordinarily to other judicial or quasi-judicial bodies such as Tribunals, etc. which are generally fact finding bodies.
5. Rule of *sub judice* applies to questions, statements, motions (excluding motions in respect of leave to introduce a Bill, take a Bill into consideration, refer a Bill to a Select/Joint Committee, circulate a Bill for eliciting opinion thereon, pass a Bill) resolutions and other debates.
6. Rule of *sub judice* applies only in regard to the specific issues before a court. The entire gamut of the matter is not precluded.
7. In case of linked matters, part of which is *sub judice* and part not *sub judice*, debate can be allowed on the matters which are not *sub judice*.
8. Rule of *sub judice* has application only during the period when the matter is under active consideration of a court of law or courts martial. That would mean as under:
  - (a) In criminal cases - From the time chargesheet is filed till judgement is delivered.
  - (b) In courts martial - From the time charges are preferred till the charges are confirmed.
  - (c) In civil suits - From the time issues are framed till judgement is delivered.
  - (d) In writ petitions - From the time they are admitted till orders are passed.
  - (e) Injunction petitions - From the time they are admitted till orders are passed.
  - (f) Appeals - From the time the Appeal is admitted till judgement is delivered.<sup>46</sup>

*Participation of a member appointed as a Minister in a State in the proceedings of the House*

Where a member of either House of Parliament is appointed as a Minister in a State, he does not incur any disqualification and continues to be a member of that House as well as minister in the State for a period of six months without being a member of the State legislature. On more than one occasions in the past, points have been raised about such members attending and participating in the proceedings of the House or voting. In one case, a member of the Rajya Sabha who was appointed a Minister in a State attended the House. In another case, a member of the Rajya Sabha

who was appointed the Chief Minister of a State was present in the House to vote on the Constitution (Fifty-ninth Amendment) Bill, 1988. The Chairman had on these occasions observed:

On the question of propriety of a member who has assumed office as a Minister in a State continuing to take part in the proceedings of the House, I would merely observe that it does seem somewhat odd that a member functioning as a Minister in a State should be attending the Rajya Sabha and taking part in the proceedings thereof.<sup>47</sup>

The Chairman, therefore, on the second occasion stated that he could not direct the member concerned not to vote. The member concerned who voted on the Bill stated, “paramountcy of the nation’s interest is more important than my personal interest.”<sup>48</sup>

*Disruption in proceedings of the House by members of Lok Sabha who are Ministers*

Every Minister has the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but not entitled to vote.<sup>49</sup> There has been an instance when Ministers, who were members of Lok Sabha, disrupted the proceedings of the House.

On 19 February 2014, the Ministers belonging to the Lok Sabha were disrupting the proceedings of Rajya Sabha. Shri Arun Jaitley, the Leader of Opposition, Rajya Sabha raised a point of order on whether a person who is not a member of the Rajya Sabha had the right to disrupt the proceedings of the House, where he is participating as a Minister. He pointed out that according to article 88 of the Constitution of India a member of one House who is appointed as a Minister can address the other House and answer the questions. He raised a point as to whether a member of the Lok Sabha who is a Minister, without having to address the proceedings can disrupt the proceedings of the Rajya Sabha. To this the Deputy Chairman made the following observation:

Hon. Members, according to me, the hon. Leader of the Opposition has raised a valid point that a member of the other House, as a Minister, can come here, speak and reply to the queries because article 88 of the Constitution is very clear. He is not allowed or expected to come and disturb the House. Therefore, what is being done by the hon. Ministers is unbecoming of them. I request them to go back to their House, or, take their seats...<sup>50</sup>

**Making of allegation against a person**

The Constitution confers on a member the freedom of speech in the House and grants immunity from proceedings in any court, civil or criminal,

for anything said by him on the floor of the House.<sup>51</sup> This constitutional privilege is, however, subject to the other provisions of the Constitution and the rules of the House.

One of the rules of the House provides that the conduct of persons in high authority should not be discussed except on a substantive motion drawn in proper terms under the Constitution.<sup>52</sup> The Constitution provides for discussion of the conduct of some of the authorities in the manner indicated therein e.g., President, Vice-President, Deputy Chairman, Judges of the Supreme Court and High Courts, Comptroller and Auditor-General of India, Chief Election Commissioner, etc. The conduct of other high functionaries such as Governors can be discussed on appropriate motions drawn in a form approved by the Chairman. In fact, the House has discussed actions of Governors in their official capacity in various forms.

The House had discussed motions (i) recommending dismissal of a Governor of a State<sup>53</sup> and (ii) condemning the action of a Governor in dismissing a Government in a State.<sup>54</sup> Both the motions were, however, negated.

The House has also discussed calling attention or short duration discussion on dissolution,<sup>55</sup> prorogation,<sup>56</sup> suspension<sup>57</sup> of Assemblies by Governors.

Matters regarding role, power, functions and method of appointment of Governors have also been discussed through calling attention and short duration discussion.<sup>58</sup>

As regards the conduct of a Chief Minister or a Minister in a State Government, the same may be discussed if the matters fall within the jurisdiction of the Union Government or are under its consideration. There have been some instances when matters pertaining to Chief Ministers/ State Ministers have been raised in the Rajya Sabha.

A short duration discussion was held regarding some disparaging remarks made by a Minister of State Government against the Scheduled Castes.<sup>59</sup>

A short duration discussion related to the action taken by the Government on a memorandum submitted to the President alleging corruption against and misuse of power by a Chief Minister.<sup>60</sup>

The report of a Commission of Inquiry on allegations made against a Chief Minister was the subject of a motion.<sup>61</sup>

There was a calling attention on the reported unwillingness of the Union Home Ministry to furnish to the Government of Orissa (now Odisha) a copy of the CBI report and the Cabinet sub-Committee's findings thereon regarding certain allegations against a former Chief Minister.<sup>62</sup>

A statement of a Chief Minister regarding undermining of the Constitution from within was the subject of a calling attention.<sup>63</sup>

When a member raised a point of order on certain observations of another member on the Chief Minister of a State on the ground that the conduct of a Chief Minister could be discussed only on a substantive motion, the Deputy Chairman, pointing out certain precedents, held that there was no such provision of bringing a substantive motion for discussing the conduct of a Chief Minister.<sup>64</sup>

As per rule, no allegation of a defamatory or incriminatory nature can be made by a member against any other member or a member of the House unless the member making the allegation has given previous intimation to the Chairman and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply.<sup>65</sup> Nevertheless the Chairman may at any time prohibit any member from making any such allegation, if he is of opinion that such allegation is derogatory to the dignity of the House or that no public interest is served by making such allegation.<sup>66</sup>

On 30 May 1967, a member while participating in a discussion on the Hazari Report on Industrial Planning and Licensing Policy made certain allegations against Dr. Ram Manohar Lohia, a member of Lok Sabha. On 5 June 1967, another member stated that the allegations against Dr. Lohia were not substantiated, and, therefore, were baseless and, therefore, constituted violation of the privilege of the House.

On 6 June 1967, when the Chairman asked the concerned member to clarify his stand on the allegations made against Dr. Lohia he stuck to them and declined to withdraw. The Chairman asked the member to meet him and substantiate his charge. In the said meeting the concerned member could not substantiate the allegations and admitted that he had no primary evidence in support of his allegations. He was directed by the Chairman to file a written statement in which he submitted: "I never said that the money was given to Dr. Lohia in my presence. I had no intention to defame Dr. Lohia, and there was no conspiracy by me to defame him and to mislead the House. Shri Rajnarain in his speech described my Congress Party and Congress Government as an orderly of the Birla empire and I had to pay him in the same coin."

On 19 June 1967, the Chairman gave his ruling on the matter and said:

I want to make it clear that members, who are not in a position to substantiate charges of the nature made in the present case, should not make such statements. Allegations and counter-allegations of this nature by members detract from the dignity of Parliament. As has been well stated by May, "Good temper and moderation are the

characteristics of parliamentary language. Parliamentary language is never more desirable than when a member is canvassing the opinions and conduct of his opponents in debate.” I would like to add that it would be a good rule to observe that members of one House should not use the freedom of speech on the floor of the House to make allegations or charges against members of the other House. As Shri Yajee has stated that he had no intention to defame Dr. Lohia or to mislead the House, I would like the matter to rest here. I hope Shri Sheel Bhadra Yajee would take note of what I have stated.<sup>67</sup>

When allegations are made by a member against another member or a Minister and the latter denies those allegations, the denial should normally be accepted by the member who made the allegations. The Chairman may also ask a member to substantiate allegations made and after inquiry inform the House of the result of his findings.<sup>68</sup>

Normally, when a member makes an allegation without giving advance notice thereof, the rule on the subject is invoked and the member is called to order. In many cases, these allegations find a place in the proceedings and if they go unchallenged they might affect the honour and dignity of the member concerned. Therefore, where any such allegations have gone on record, the Minister or member against whom allegations have been made, is allowed to make a statement in the House clarifying the position either on the same day or latter on and that brings the matter to an end.<sup>69</sup>

As regards allegations against an outsider on the floor of the House, the practice and convention is not to bring in the name of any person who cannot defend himself on the floor of the House.<sup>70</sup> If, however, such an allegation becomes the subject-matter of a case for investigation by police or any other investigating authority, the police or the investigating authority cannot approach the member and call upon him to divulge the source of his information or give up evidence in his possession which may assist the police or the investigating authority in their investigation. The Committee of Privileges has laid down the course of action which should be followed in such cases, as has been explained in Chapter-8 relating to Privileges.

### **Personal explanation**

A member or a Minister may, with the permission of the Chairman, make a personal explanation although there is no question before the House, but in this case no debatable matter may be brought forward and no debate should arise.<sup>71</sup>

A member made a statement regarding an incident in Burdwan to which a reference had been made by another member in the House a few days back. A point of order was raised as to whether the

member could be permitted to make a statement with reference to a matter which did not personally concern him but which only related to a political party. The Chairman referring to the then rule 203 (corresponding to the present rule 241) ruled that the member had not taken the Chairman's prior permission to raise the point on the floor of the House and, therefore, his making the statement in question was not in order. He was trying to give the version of a party of the incident to show that the criticism levelled against that party was not justified. This introduced debatable matter which also was not permissible under the rules. The Chairman further observed:

It is true that in regard to the explanation of a personal nature, the House is usually indulgent and it permits a statement of that character to be made, provided that leave has been previously obtained from the Chair but general arguments and observations beyond the fair bounds of personal explanation are out of order. The indulgence of personal explanation should be granted with caution so that no debatable matter may be brought forward and no debate shall arise.<sup>72</sup>

On an occasion, a member was given permission to make a personal explanation with reference to certain observations made by the Deputy Prime Minister and Minister of Finance concerning him, in the course of the intervention in the debate on Birla Affairs on 5 March 1969. The member was informed in writing that his personal explanation should only refer briefly to the budget proposals and not other matter. However, after the member had made the personal explanation, the next day, the Chairman made the following observations when he found that the member had exceeded the permission given to him and had referred to matters not relevant to personal explanation:

This is clearly against procedure and well-established conventions. I would like to say that if members who seek my indulgence in matters like this misuse it, I will have to seriously consider whether hereafter I shall not have to insist that the member who seeks this privilege should put down the statement of personal explanation in writing in advance and show it to me before the statement is made.<sup>73</sup>

On another occasion, when a Minister made a personal explanation apologising for some mistaken statement she had made earlier in the House, but bringing in some other matters and names of various leaders, a member raised a point of order under rule 241. The Chairman stated that he would go through the speech and if anything came within the terms of the debatable matter, he would expunge it.<sup>74</sup>

If the permission is granted, the member concerned makes a statement and no further questions or clarifications thereon are permitted, the

intention being that the personal explanation should not be converted into a debate. As has been observed, "These statements are made by the indulgence of the House, and not of right, since there is no question before the House at the time, and no debate can take place".<sup>75</sup>

When a member wanted to put some questions by way of seeking clarifications on a personal explanation made by a Minister, the Chairman observed, "You cannot discuss it here....on personal explanations, no questions are put."<sup>76</sup>

After a member made a personal explanation, many members wanted to raise points of order and a discussion on the matter. The Deputy Chairman observed that no discussion was permissible thereon. If members wanted to discuss any issue, they should follow appropriate procedure for the purpose. Both the versions of the Minister and of the member had appeared in the proceedings and the matter ended there.<sup>77</sup>

The scope of a personal explanation has already been described in Chapter-15 dealing with the arrangement of business. In this connection, the following observations may also be germane:

When a member makes a personal statement, the House assumes that he does so with complete integrity. As Mr. Harold Wilson put it, in the course of debate on the Profumo case on 17 June 1963, "this House allows freedom of personal statement without question or debate on the premise that what is said is said in good faith."<sup>78</sup>

Some of the personal explanations permitted to be made in the Rajya Sabha may also be mentioned.

(a) *To clarify misleading press reports*

A member was permitted to clarify certain misleading press reports about his statement in the House.<sup>79</sup>

A member made personal explanation on press report about him on the Cauvery issue.<sup>80</sup>

A member made personal explanation as his speech in the Rajya Sabha regarding the Indian Express Building case had been selectively reported and some parts wherein he had paid tributes to the Judge concerned were omitted in the press and so in order to correct the "regrettable impression" and to set the record straight. When another member said something thereon, the Chairman directed it not to be recorded and observed, "Nobody can make any comment on personal explanation."<sup>81</sup>

(b) *To refute remarks attributed to a member*

A member made a personal explanation to deny a statement alleged to have been made by him in the Central Hall as attributed to him.<sup>82</sup>

(c) *To clarify regarding arrest*

A member made a personal explanation regarding her arrest and the circumstances in which she was transferred to the Tihar Jail, Delhi and brought to Parliament House to attend the session of the Rajya Sabha.<sup>83</sup>

(d) *To explain the position*

A member made a personal explanation to clarify the position regarding raid on his house, etc. Another member raised a point of order that the personal explanation was not connected with the business of the House. The Deputy Chairman clarified that the member was permitted because his image as a member of the House was spoiled.<sup>84</sup>

Five members of the Rajya Sabha were permitted to offer personal explanations arising out of newspaper reports that their names figured in the charge-sheet in the Ram Swaroop espionage case.<sup>85</sup>

(e) *To refute allegations*

Prime Minister, Shrimati Indira Gandhi, laid on the Table a statement refuting an allegation made by a member regarding her telephone charges of a particular month.<sup>86</sup>

On an occasion, the Chairman made the following announcement in the House:

During the discussion on the calling attention notice on the takeover bids of Indian companies by certain non-residents of Indian origin, one hon'ble member mentioned, *inter alia*, that the money invested was "the Prime Minister's money, political money and money not earned honestly. Unfortunately this comment went on record in the absence from the House of the Prime Minister and there was no chance to refute it. I have since been told that the allegation made is totally baseless. As the allegation has gone on record, I consider it fair that the refutation should also be on record."<sup>87</sup>

(f) *Explanation and counter-explanation*

The general practice is that when a personal explanation is made by a member, another member who originally made the observations is not allowed to make a counter-explanation. The matter is treated as closed with the statements of both the members being on record.

However, a member made a personal explanation regarding a matter concerning him mentioned by another member in the House. The next day, the latter member made a personal explanation in respect of matter mentioned about him by the former.<sup>88</sup>

A Minister made a personal explanation regarding certain allegations made against him in his earlier capacity as a Minister of another Ministry, by a member. After three days the member made a statement with the permission of the Chairman, denying the allegations made by the Minister.

When several members rose, the Chairman observed, "There is a rule that after the statement has been made, there shall be no other personal statement. But if a 'statement of fact' is made therein by a Minister or anybody, 'that can be contradicted.' Hence, it was permitted."<sup>89</sup>

(g) *To clarify a statement*

A member was permitted to make a personal explanation to clarify that during a supplementary question he had referred to a cartoon appearing in a newspaper out of misunderstanding. He requested that his supplementary be expunged from the proceedings of the House. The Chairman ruled that the statement of the member would go on record.<sup>90</sup>

A member stated that while speaking on the motion regarding report of the Commission of Inquiry on Dalmia-Jain Companies, he had stated that fifteen lakhs was collected for election. He was allowed to correct it to several lakhs. He also stated that he was placing a paper on the Table, in support of his statement.<sup>91</sup>

(h) *Ministers making personal explanations*

There is no bar for a Minister who is a member of the other House to make a personal explanation to refute allegations or observations made against him by members in the House. On a number of occasions such statements have been made.<sup>92</sup>

A Minister of State or Deputy Minister was permitted to make a personal explanation regarding the so-called dispute between her and her Cabinet Minister. Some members raised a point of order that since the Minister concerned was not a member of the House, she could not make a personal explanation. The Deputy Chairman ruled out the point of order holding that had the concerned Minister been only a member of the other House, the Chair would not have allowed any allegations against her. It was allowed because she came to the House as a Minister... was answerable to the questions of members of both the Houses. Secondly, the Chairman in his right had permitted her to make a personal explanation and so she was in the House.<sup>93</sup>

**Order of speeches and the right of reply**

After the member who moves a motion has spoken, other members may speak on the motion in such order as the Chairman may call them.

If any member who is so called does not speak, he is not entitled, except with the permission of the Chairman, to speak on the motion at any later stage of the debate.<sup>94</sup>

Except in the exercise of a right of reply or as otherwise provided by these rules, no member can speak more than once on any motion, except with the permission of the Chairman.<sup>95</sup> A member who has moved a motion may speak again by way of reply, and if the motion is moved by a private member, the Minister concerned may, with the permission of the Chairman, speak (whether he has previously spoken in the debate or not) after the mover has replied.<sup>96</sup> The right to reply, however, does not extend to the mover of an amendment to a Bill or a resolution save with the permission of the Chairman.<sup>97</sup>

### **Closure**

At any time after a motion has been made, any member may move, "That the question be now put," and unless it appears to the Chairman that the motion is an abuse of the rules or an infringement of the right of reasonable debate, the Chairman puts the motion, "That the question be now put."<sup>98</sup> If the motion is carried, the question or questions consequent thereon are put forthwith without further debate, subject to the right of reply which may be allowed by the Chairman to a member.<sup>99</sup> If the closure is not carried, the debate on the motion is resumed at the point where it was interrupted.<sup>100</sup>

The Criminal Law Amendment Bill, 1952, was discussed at length. A member moved with the permission of the Chair for the closure of the debate. Another member supported the motion. The Deputy Chairman declared that there had been a reasonable debate and he put the question: "That the question be now put." The motion was adopted. Thereafter, the Minister concerned replied to the debate (though the reply itself was spilled over to the next day).<sup>101</sup>

The motion to refer the Hindu Marriage and Divorce Bill, 1952 to a Joint Committee was discussed for nearly ten hours. A member moved, "That the question be now put." Before putting the question, the Chairman observed that almost all the points of view had been set forth. He put the question. It was adopted after taking a count of members supporting the motion. Thereafter, the Minister replied.<sup>102</sup>

A private member's resolution regarding enlistment of public cooperation in the Second Five Year Plan was being discussed. At 5 minutes to 5.00 p.m., a member moved, "That the question be now put." The motion was adopted. The mover gave a reply. The resolution was thereafter withdrawn by leave of the House.<sup>103</sup>

In regard to a private member's resolution regarding constituting a permanent Board for Youth, a member moved, "That the question be now put." The motion was negatived. The discussion proceeded.<sup>104</sup>

### **Limitation of debate**

Whenever the debate on any motion in connection with a Bill or any other motion becomes unduly protracted, the Chairman may, after taking the sense of the House, fix the hour at which the debate is to conclude.<sup>105</sup>

At the appointed hour, in accordance with the time-limit fixed for discussion and passing of a particular Bill or motion, unless the debate is concluded sooner, the Chairman proceeds forthwith to put all such questions as may be necessary to determine the decision of the House on the original question.<sup>106</sup>

The Special Marriage Bill, 1952 was discussed for three days. On 4 May 1954, the Deputy Chairman wanted to close the debate on the Bill under the rule 207 existing then (corresponding to the present rule 245). He took the sense of the House and when he saw that very large number of members wanted the debate to continue, the debate was continued.<sup>107</sup>

### **Question for decision**

A matter requiring the decision of the House is decided by means of a question put by the Chairman on a motion made by a member.<sup>108</sup> After the motion has been moved, the Chairman formally proposes or places the motion for the consideration of the House. At the end of the debate on the motion, he puts the motion for the decision of the House thus: "That the question is: '....' (Here the Chairman repeats the motion as moved by the member). Those in favour will say 'Aye'; those against will say 'No'. " If a motion embodies two or more separate propositions, those may be proposed by the Chairman, as separate questions.<sup>109</sup>

No debate on a motion can take place until the question has been proposed by the Chairman and the House is in possession of the motion and the question is proposed at the conclusion of the speech of the mover.

On an occasion, a Minister moved a motion for extension of time for presentation of a report of the Joint Committee on a Bill. Immediately, thereafter speeches were made by some members and the Prime Minister on the motion. The Chairman observed:

All the speeches hitherto made are completely irrelevant because I have not put the question to the House.<sup>110</sup>

Generally, no question can be put for the decision of the House without debate unless there is agreement in the House or where it is specifically provided in the rules.

On several occasions, the House has passed Bills without discussion on the recommendation of the Business Advisory Committee or consensus in the House.

When a member is suspended by motion being made to that effect, no debate is permitted on such a motion.<sup>111</sup>

No member is permitted to speak on a question after the Chairman has collected the voices both of the Ayes and of the Noes on that question.<sup>112</sup>

### **Laying of papers on the Table**

#### *Laying of papers by Ministers*

Papers are laid on the Table of the House either in compliance with specific provision in the Constitution, statutes of Parliament, rules of procedure or practices and conventions in regard thereto. Chapter-15 relating to Arrangement of Business has listed a variety of papers which are presented to Parliament.

If a Minister quotes in the House a despatch or other State Paper which has not been presented to the House, he is required to lay the relevant paper on the Table.<sup>113</sup> The rule, however, does not apply to documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest.<sup>114</sup>

During his speech on a motion for modification of IAS (Recruitment) Rules, 1954, Dr. K. N. Katju, Minister of Home Affairs and States, read from a private letter written by Sardar Vallabhbhai Patel, having a bearing on the matter under discussion. On a point of order, a member demanded that the paper should be laid on the Table of the House. The Minister stated that it would not be in the public interest to lay any private letter on the Table of the House. The Deputy Chairman ruled that even though it was a private letter, inasmuch as it dealt with a matter of State and the Minister had declared that it would not be in the interest of public to lay it on the Table, the 1st proviso to rule 211 (old) would apply to the document and therefore it need not be placed on the Table.<sup>115</sup>

The Minister of State in the Ministry of Finance, in reply to a question, quoted from a Report of the Company Law Board. A demand was made that the Report should be laid on the Table of the House under rule 249. The Chairman directed the Minister to lay the Report. The Minister laid it later.<sup>116</sup>

During the discussion on a calling attention regarding security lapse at Rajghat, the Minister concerned had quoted a comment made by the Indian Consul-General at Karachi, in a cable received in the Ministry of External Affairs. There was a demand that the cable should be placed on the Table of the House. The Minister concerned contended that it would not be in the public interest to do so. In order to ascertain the position, the Chairman called for a copy of the cable and on perusal ruled that since the cable contained other materials besides

the comment of the Consul-General, which it would not be in the public interest to disclose, the proviso to rule 249, which protected such papers when quoted from being laid on the Table, applied in this case and upheld the Minister's contention.<sup>117</sup>

On 19 September 1963, in reply to a question regarding enquiry into the charges levelled against a Chief Minister, the Prime Minister, Shri Jawaharlal Nehru, had referred to a report of a sub-Committee (of the Congress Party) to which the charges were referred (by the Congress President). There was a demand made by some members that the report should be placed on the Table of the House. The Prime Minister stated that the report was not under his custody. Next day, the demand was repeated. The Prime Minister left the matter to be decided by the Chairman, especially when the report had already been published in newspapers and he had no objection to show it to the members. The Chairman ruled that he would not ask the Prime Minister to lay it on the Table as it would be a bad precedent and the report had already been published and was a public document. It was, he held, neither a despatch nor a State Paper in terms of (old) rule 211. The Prime Minister thereafter clarified that he was not putting any obstruction in the way of placing the paper. The Chairman then stated that he took into consideration the Prime Minister's readiness to place the paper but he was not asking the Prime Minister to lay it as he did not wish to create a precedent.<sup>118</sup>

During the course of supplementaries on a starred question regarding Lt. Gen. Kaul's book, *The Untold Story*, a member wanted to know whether the Minister of Defence to whom the question was addressed was prepared to place on the Table of the House the report by Gen. Henderson on the debacle in NEFA. The Minister stated that it would not be in the public interest to publish the report. Another member raised a point of order that if the Minister was seeking the protection of the Chair to withhold the report from the House, then he (the Minister) would have to seek the Chairman's permission not to lay the report on the Table. The Chairman observed, "....the Government is entitled to plead that it is not in the public interest to put the documents on the Table of the House even without my permission but in that case in order to have the smooth working of the House the Government should do so in consultation with the Chair."<sup>119</sup>

Where a Minister gives in his own words a summary or gist of such despatch or State Paper it is not necessary to lay the relevant papers on the Table.<sup>120</sup>

While replying to a calling attention, the Minister had quoted 2-3 letters. A member raised a point of order to demand laying of those letters on the Table. The Deputy Chairman ruled, with reference to the proviso to rule 249, that whatever the Minister had said was there in the main statement of the Minister also and, therefore, it was not necessary to lay the papers.<sup>121</sup>

*Laying of correspondence between Ministers*

During the July-August 1978 session of the Rajya Sabha a demand was raised time and again for laying on the Table of the House some correspondence which had taken place between the Prime Minister, Shri Morarji Desai and the then Home Minister, Chaudhary Charan Singh regarding allegations of corruption against the family members of each other. On 19 July 1978, speaking on the calling attention on the subject, the Prime Minister, *inter alia*, observed that it was a well recognised principle that communications between Ministers were privileged communications. It was necessary for a free and frank exchange of views between the Ministers and had been recognised in May's *Parliamentary Practice* also. The Prime Minister added that he proposed to adhere to this principle in the transaction of Government business.<sup>122</sup>

Following continued demands for laying the documents on the Table and noisy exchanges leading to early adjournments of the House on some days, the Chairman made the following announcement:

Members may recall that I had informed the House on 24-7-1978 that I would try to find out some solution to the matter raised in the House with regard to the tabling of the correspondence that took place between the Prime Minister and former Home Minister, Chaudhary Charan Singh. As you are aware, I had already discussed the matter with the Leader of the House, Leader of the Opposition as well as Leaders of the other parties and groups in the House. I, therefore, know the strong feelings of the Opposition parties on this issue. Subsequent to my commitment to the House on the 24<sup>th</sup> I contacted the Leader of the House and discussed thoroughly the matter with him.

I have advised the Government that it would be better if the Government place this correspondence in the Chairman's Chamber for perusal by the Leader of the Opposition and Leaders and some members of other parties and groups in the House who attended our meetings. The modality and procedure for the perusal of the said correspondence would be the same as was adopted in the matter of the Import Licence case in December 1974. The Government have agreed to my suggestion. I hope this will satisfy all the members of the House.<sup>123</sup>

However, the matter continued to be raised in the House, first to demand that the correspondence be laid on the Table and then to press for admission of a no-day-yet named motion on the subject.<sup>124</sup> On 3 August 1978, the Chairman gave the following ruling so far as the placing of the correspondence on the Table of the House was concerned:

Two points were raised in the House. The first dealt with notices of motions given by some members regarding tabling of the correspondence

between the Prime Minister and the former Home Minister, Chaudhary Charan Singh. Members are aware that this issue has been raised practically every day in the House since the session commenced on the 17<sup>th</sup> of the last month. On July 27, 1978, I announced my decision that leaders of the various parties, groups and some other members of the Rajya Sabha may peruse the said correspondence in the Chairman's Room. I made this announcement after consulting all the leaders who attended our meetings; and after I made the announcement in the matter, the House accepted it and nobody opposed it. In view of this, I am of the opinion that the demand made in the said motions given notice of by these members regarding tabling of the said correspondence does not arise.<sup>125</sup>

#### *Laying of CBI Report on Pondicherry Licence Case*

A reference has been made to the Import Licence case earlier. It is a landmark precedent in the procedural history of the Indian Parliament and subsequently, whenever similar or near similar occasions have arisen, a reference has always been made to the procedure adopted in this case. It may, therefore, be mentioned in more detail.<sup>126</sup>

The genesis of this case can be traced to a supplementary question asked on 13 August 1974 to the Starred Question (SQ) no. 380, when a member referred to certain Members of Parliament saying that their signatures had been forged on a letter recommending licences to certain firms in Yanam and Mahe in the Union territory of Pondicherry.<sup>127</sup> It was followed up by a question (SQ no. 730) based on a press report, on 27 August 1974. In reply to the question the Minister of Commerce gave the names of members involved and the firms to which licences were issued. The Deputy Chairman directed the Minister to verify the signatures of members. The same evening the Minister made a statement saying that eighteen members had told him that their signatures were forged.<sup>128</sup> On 11 September 1974, the House discussed a motion seeking to appoint a Parliamentary Committee to investigate all matters arising out of the question of 27 August 1974. The motion was negatived by a division.<sup>129</sup> The members, however, continued to pursue the matter.

When, on 4 December 1974, some members of the opposition wanted the Government to lay on the Table the CBI report in the matter, the Minister of State in the Ministry of Home Affairs did not agree to it on the ground that the CBI report was a confidential and a sensitive document, that it was contrary to known practice not to lay it on the Table and that it would be injurious to the public interest to do so. He also quoted in his support the Chairman, Dr. Zakir Husain's ruling which *inter alia* stated, "... I have also consulted the Government in the matter. The Government do not propose to lay the CBI report and the findings of the Cabinet Sub-Committee on the Table of the House as they are of the view that

these are secret and confidential documents and as such privileged. In these circumstances, I will not be able to insist upon the laying of these documents by Government on the Table of the House.” The Deputy Chairman observed: “I abide by Dr. Zakir Husain’s ruling and I cannot go beyond that.”<sup>130</sup>

To resolve the protracted issue the Deputy Chairman suggested that “conscious of the fact there shall not be a precedent nor shall we transgress any ruling that is given in this House, Government should consider the possibility of calling all the leaders of all the opposition groups and also the Minister of Parliamentary Affairs, etc. and the CBI report could be given to the Chairman and all these leaders could go through it on oath of secrecy so that nothing was divulged to the press.”<sup>131</sup>

On 9 December 1974, the Prime Minister, Shrimati Indira Gandhi made a statement in the House explaining the reasons for not laying the CBI report on the Table but stated that “in view of the entirely unjustified propaganda being carried on... and to accommodate the sentiments of the Opposition, while maintaining legal rectitude, Government is willing to accept the suggestion that the leaders of the Opposition might see, in confidence and under oath of secrecy, the CBI report, statements made by witnesses and documents seized during the investigation, the report of the handwriting expert and even the case diaries which are not even shown to the accused.”<sup>132</sup>

On 10 December 1974, the Chairman stated that he would consult the different political parties and fix up the date of meeting for the purpose. The significance of the decision of the House was reflected in the Chairman’s observations: “Really I must say that the credit should go to this House. We have done very well and it will be in the best atmosphere.”<sup>133</sup>

#### *Laying of correspondence between the President and the Prime Minister*

A demand was made in the House for a discussion on a letter purported to have been written by the President to the Prime Minister, on the basis of the text of the letter which appeared in a newspaper. The Chairman did not permit the discussion and gave a detailed ruling on the subject. He, *inter alia*, observed that it was of utmost importance that the confidentiality of communications between the President and the Prime Minister was maintained in the larger interest of democracy and the nation.<sup>134</sup>

#### *Laying of State correspondence*

During the interpellations on a question regarding incidents of violence in Gujarat, the concerned Minister had stated that he had written to the Chief Minister of Gujarat and the Chief Minister had replied. A member wanted to know whether the Minister would lay that reply on the Table.

The Minister of Home Affairs stated that he did not see any need to do so. The Chairman stated that the correspondence could not be placed on the Table.<sup>135</sup>

*Placing a report in the Parliament Library as good as laying it on the Table of the House*

On 16 March 1981, a member made a reference to the direction given by the Vice-Chairman on 11 March 1981 that the Puri Committee Report on gold auctions be placed not only in the Library but also on the Table of both the Houses. The Minister of Finance, Shri R. Venkataraman, explained that since certain unauthorised versions of the report had started leaking out, the report was immediately placed in the Library as it would take time to prepare a large number of copies to be laid on the Table.

When the Deputy Chairman remarked that for all practical purposes it was sufficient to do so, the member demanded that the report be placed on the Table of the House so that the same could be discussed. Thereupon, the Deputy Chairman observed, "Once the report has been placed in the Library, the members have an access to that. It is as good as laying it on the Table of the House."

Another member pointed out that there was a qualitative difference between placing it on the Table of the House and placing it in the Library. He said there was authenticity in placing the report on the Table of the House because somebody could be held responsible for the same. After persistent demand from the members, the Minister of Finance stated that he would obey the directive from the Chair. There were continued interruptions and the Deputy Chairman assured the House that when the Minister will be ready with sufficient number of copies of the report, he would place it on the Table.<sup>136</sup>

*Competence to lay a paper on the Table*

It is for the Government to decide whether a report or a paper should be placed on the Table. The Chairman has declined to give any direction to the Government whenever a request has been made by members for laying of such a report or a paper.

When a Minister was moving a motion for reference of a Bill to a Select Committee, a point of order was raised that the report of the expert committee which was referred to in the Statement of Objects and Reasons appended to the Bill should be laid on the Table of the House. The Deputy Chairman overruled the point stating that he could not compel the Government to lay the report.<sup>137</sup>

The House was to discuss the Thakkar Commission Report which was laid on the Table on 27 March 1989. The issue was whether the interim and final reports which were laid were the complete report or whether any portions thereof were withheld by the Government. The opposition members chose not to participate in the discussion, following the Government's refusal to place other papers connected with the report on the Table of the House. The Chairman ruled, *inter alia*, that in view of the Attorney-General's opinion tendered to the Government, as conveyed to him, he was not in a position to issue any direction to the Government in the matter.<sup>138</sup>

The interim report on the treatment of Shri Jayaprakash Narayan was not laid by the Minister of Health even though it was listed for laying, in the list of business. The Minister made a statement explaining the reasons for not laying the report on the Table.<sup>139</sup>

The Deputy Minister of Railways and Transport sought to lay on the Table a copy of a Notification under the Delhi Road Transport Authority Act, 1950 which had not been formally brought into force. The Leader of the House, before a member rose on a point of order, *suo motu* raised a point that the notification could not be laid on the Table in view of the decision of the House on the previous day that a fresh legislation was necessary for validating the actions taken under that Act. The notification was, therefore, not laid.<sup>140</sup>

While answering supplementaries to a starred question on exodus of minorities from East Pakistan, the concerned Minister stated that after the report of a Committee appointed by Government was received, it would consider whether the report could be placed on the Table of the House. A member contended that the question whether the report should be placed on the Table of the House or not could not be left to the sweet will of the Government but it was for the Chairman to decide on it. The Leader of the House (Shri M. C. Chagla) explained that the constitutional position was that if Parliament appointed a Committee, its report should be placed on the Table; but if the Government appointed a Committee, it was not incumbent upon the Government to lay the report of the Committee on the Table. The Government would have to study, after receiving the report, whether there was anything in it which might affect the security of the country or its international relations and then decide whether it could be placed on the Table or not. The Chairman agreed with the Leader of the House.<sup>141</sup>

When the Report of the Commission on the Maharashtra-Mysore-Kerala Boundary Dispute was being laid on the Table of the House, points were raised that the report could not be laid on the Table because the report was not being presented either in pursuance of any decision of the House or as a result of any committee having been appointed by the House. The report, it was contended, was thus extraneous document.

Another contention raised was that the report was time-barred and should not be laid on the Table. The Deputy Chairman referred to rules 249 and 250, which were cited by the member in support of his first contention and stated that rule 249 related to documents which were referred to by a Minister while speaking in the House; rule 250 related to all documents which were laid on the Table of the House under any rule or procedure or precedent. All documents once laid on the Table became public documents. They were then available to members; could be published in the press and utilised in whatever manner by the public. The general practice in the House was that documents or reports were normally placed on the Table of the House by Ministers. The practice had been that if the Government wanted to place any document on the Table of the House, it could do so and had been doing so, with the permission of the Chairman. As regards the time-limit, there was no time-limit prescribed for laying documents on the Table of the House. The report had not, therefore, become time-barred.<sup>142</sup>

*Laying of a paper by the Secretary-General*

It has already been mentioned in an earlier Chapter that the Secretary-General also lays some papers from time to time such as President's Address, Bills assented to by the President, etc.<sup>143</sup>

On an occasion, the Chairman made the following announcement:

I received from the Prime Minister a letter and a note in regard to certain allegations made against Shri M.O. Mathai, former Special Assistant to the Prime Minister. The comments of the Finance Minister and the Comptroller and Auditor-General on the Cabinet Secretary's report were also sent to me. I am asking Secretary to lay a copy each of the documents on the Table of the House.

Thereafter, the Secretary laid the following papers on the Table:

- (1) Letter dated 6 May 1959, from the Prime Minister to the Chairman in regard to certain allegations made against Shri M.O. Mathai, former Special Assistant to the Prime Minister.
- (2) The Prime Minister's note in regard to those allegations.
- (3) Comments of the Finance Minister and the Comptroller and Auditor-General on the Cabinet Secretary's report in respect of the allegations.

The Chairman announced that the papers would be circulated to members before the House adjourned for lunch that day.<sup>144</sup>

*Authentication of a paper to be laid*

A paper or a document which is laid on the Table is duly authenticated by the Minister or member concerned. The authentication is done on the front page of the paper in accordance with standing instructions issued to Ministers. In the case of a paper or a document which is to be laid by a Minister, an entry is made in the list of business. There is no right to a private member to lay a paper on the Table unless he is permitted to do so by the Chair. Authentication by a member is required only when he has been allowed to lay a paper.

Authenticated copies of all papers or documents to be laid on a particular day are kept at the Table before the commencement of the sitting and sent to the Parliament Library later.

*Procedure for laying*

Papers are required to be laid on the Table by Minister both in English and Hindi versions. Where a paper is permitted to be laid by the Chairman in one version only, the Minister has also to lay on the Table a statement giving reasons for not laying simultaneously the other version of the document.

When a Minister wants to lay on the Table any paper or document, the Ministry concerned forwards to the Secretariat copies each of Hindi and English versions of the paper complete in all respects, including one copy each thereof duly authenticated by the Minister concerned, at least two days before the date on which the Minister proposes to lay it on the Table. In special circumstances the Chairman may, on request, permit a Minister to lay a paper at a shorter notice. If the Minister in whose name an item stands on the list of business is not present, the paper can be laid on the Table by another Minister with prior intimation to the Chairman.

While forwarding a paper to the Secretariat, the Minister concerned is required to indicate the relevant statute under which the paper is being laid and the date on which it is proposed to be laid. Papers received from the Ministries are examined in the Secretariat to see whether they conform to the statutory requirements, if any. If it is found that there has been a delay in laying a paper, the Minister concerned is required to lay on the Table a statement, both in Hindi and English, explaining reasons for the delay along with the paper. The statement is also required to be duly authenticated by the Minister concerned.

If the Minister has indicated a particular date on which he wishes to lay a paper on the Table, an entry is made in the list of business for that date. In case no date is mentioned, the entry is normally made in the

list of business for the next day allotted to the Minister for answering questions in the House. The entry is made in the name of the Minister who has authenticated the paper. The paper is identified by the number and or title assigned to it and the list of business mentions the same or the subject briefly.

Laying a paper on the Table does not imply that the Minister is required to literally place the listed paper on the Table or hand it over thereat. The procedure is that the paper duly authenticated has already been deposited with the Secretariat; it is available at the Table when the Minister formally states that he lays the paper on the Table as indicated in the list of business and that such a paper may be made available for reference or perusal to the members on request after the Minister has laid the paper formally on the Table.

After concluding his speech on a private member's resolution, a member walked up to the Table of the House and tried to lay on the Table some document. When another member inquired from the Chair whether the paper was being laid on the Table, the Vice-Chairman observed: "Anything handed over here is not automatically laid on the Table of the House."<sup>145</sup>

On another occasion a member wanted to lay on the Table certain newspaper items so that they form part of the record. The Deputy Chairman asked the member to take them back observing, "If I have to take papers like this, there should be a separate storage for them. This is not the way of laying papers on the Table."<sup>146</sup>

#### *Laying of a paper preceded by a statement*

While presenting the report of the Planning Commission on the Second Five Year Plan, the Prime Minister, Shri Jawaharlal Nehru, made a long speech. Towards the end, the Chairman observed that in presenting the report it was not necessary for the Prime Minister to have made a long speech. But by doing so, he had honoured the House and given it an advantage.<sup>147</sup>

Similarly, the Prime Minister, Shri Jawaharlal Nehru, made a statement on the report of the Netaji Enquiry Committee and laid a copy of the report on the Table, thereafter.<sup>148</sup>

#### *Constitutionality of a paper being laid*

The Chair does not pronounce on the constitutionality of a paper that is being laid on the Table.

When the Minister of State in the Ministry of Finance was about to lay on the Table a copy of the Ministry's Notification containing the President's Order in regard to authorisation of certain expenditure out

of the Consolidated Fund of the Union territory of Pondicherry, a member contended that it was unconstitutional. The Chairman ruled:

The Chair does not pronounce on the constitutional validity of documents. Moreover, in this case the constitutional validity of this document is *sub judice*. Laying any document on the Table merely means that information is being given to the members about its contents. Moreover, the document has been referred to in the Bill and it will be a matter which may be referred in the debate. It has already been laid in the Lok Sabha and has become a public document. I hold that this document will be laid on the Table of the House.<sup>149</sup>

The Committee on Papers Laid on the Table is entrusted with the work of examining the papers laid on the Table in accordance with the rules. The Committee on Subordinate Legislation scrutinises ‘orders’ (*i.e.*, rules, regulations, etc.) from various aspects as per the rules.

#### *Papers laid on the Table considered public*

All papers and documents laid on the Table are considered public<sup>150</sup> and they become part of the permanent record of the House. The papers are placed in the Parliament Library and find a mention in the printed proceedings of the House together with the Library Index number given to them.

#### *Circulation of a paper laid*

Copies of papers laid on the Table are circulated to members if the Minister so desires or there is a general demand in the House. Papers on which discussion takes place in the House like the Budget documents, reports of UPSC, UGC, SC/ST Commissioner, etc. are invariably circulated to members.

On an occasion, the Prime Minister, Shri Jawaharlal Nehru explained that it was not possible for Government to place on the Table papers connected with the enquiry into LIC affairs immediately and yet Government did not want to delay their publication till the next session. He, therefore, sought the advice of the Chairman whether it would be possible for Government to send the papers to members instead of waiting for the next session and then place them on the Table of the House. After some discussion the Chairman observed, “Our conclusion is that after the Government have considered this matter and when they come to certain decision, the UPSC report and Government’s decisions will be sent to our Secretary who will distribute them to members.”<sup>151</sup>

#### *Re-laying of a paper*

Where the Constitution or a statute provides that ‘orders’ issued thereunder should be laid on the Table for a specified period, it is required

to be completed in one session and if it is not so completed, the ‘order’ is required to be re-laid in the subsequent session or sessions until the said period is completed in one session. Where the ‘orders’ are laid on the Table in two Houses on different dates, the period for which they are required to be laid commences from the later date.

Where a statute provides that the ‘orders’ framed thereunder should be laid on the Table for a certain period which may be comprised in one or in two or more sessions the ‘orders’ after having been laid initially in a session are deemed to lie in the succeeding sessions till the specified period is completed and thus such ‘orders’ are not formally re-laid on the Table in the succeeding sessions, for the completion of the prescribed laying period.

#### *List of Statutory Orders laid during a session*

The Secretariat publishes weekly during each session, for the information of members the list of Statutory Rules and Orders made under the delegated powers of legislation, laid on the Table of the Rajya Sabha during that session together with the relevant provisions of the Statutes under which they are laid, the period for which they are to lie on the Table and the period during which modification can be made in those rules and orders.<sup>152</sup>

#### *Laying of sensitive notifications*

Sensitive notifications are those which make changes in export duties, import duties or excise tariffs involving revenue of more than rupees fifty lakhs per annum except cases where an existing concession is being continued.<sup>153</sup> These notifications are required to be laid within the time as per the recommendations of the Committee on Subordinate Legislation of the Lok Sabha.<sup>154</sup> Supplementary list of business is issued for laying such notifications, before the House rises for the day so that the contents of the notifications are known to members in advance.<sup>155</sup>

#### *Laying report of a parliamentary delegation*

The Chairman and the Speaker had appointed a delegation consisting of nine members to tour the State of Assam for a period of ten days from 12 August 1960 with a view to:

- (i) make an assessment of the situation there;
- (ii) suggest measures for improvement; and
- (iii) propose steps for the prevention of a recurrence of such happenings there.

The delegation was asked to submit a report to the Presiding Officers of both the Houses.<sup>156</sup> The report was submitted to the Chairman by a member of the Committee who was asked by the Chairman to place the report before the House. Accordingly, the report together with letters of two members of the Committee was placed on the Table.<sup>157</sup>

#### *Custody of papers*

Custody of all records, documents and papers belonging to the House or any of its committees or the Secretariat vests in the Secretary-General. When a document is presented to the House or furnished to any of its committees or the Secretariat, it forms part of the records of the House. In case any document connected with the proceedings of the House or a committee thereof or otherwise in the custody of the Secretary-General is required to be produced in a court of law, it can be furnished only with the leave of the House according to the procedure laid down, as has been described in Chapter-8 relating to Privileges.

Under section 78(2) of the Evidence Act, 1872, the proceedings of the House can be proved by the production of the authorised parliamentary publication. As such the Rajya Sabha is troubled only when unpublished documents of its proceedings are required as evidence in a court of law. In most of the other cases only the certified copies of the documents are generally called for in the first instance.

When information concerning a member from the records in the custody of the Secretary-General is required by the executive authorities e.g., the police, or such authorities desire to inspect the documents or have copies thereof, the same is permitted subject to a stipulation that the same will not be produced before a court of law without the Chairman's prior permission.

A request was received from the Assistant Commissioner of Police, New Delhi, to examine certain documents in the custody of the Secretary-General in connection with the investigation of a certain case registered on the complaint of a member of the Rajya Sabha. The Chairman got the matter examined by the Committee of Privileges and informed the House that the Committee felt that the Chairman might permit the police authorities to inspect and make copies (including photostat copies) of the documents and that the Committee was of the opinion that the said documents or copies thereof should not be used or produced before a court of law without obtaining the prior permission of the Chairman to that effect. The Chairman accordingly permitted the police authorities with a caution that his prior permission should be obtained.<sup>158</sup>

*Laying of a paper by a private member*

There is no provision in the Rules of Procedure and Conduct of Business in the Rajya Sabha which confers upon a private member the right to have a document placed on the Table of the House. If, in the special circumstances of a case, a private member desires to lay any document on the Table of the House, he should give prior notice to the Chairman so that he may look into the document and then decide whether he should permit the member to lay the document on the Table of the House. The document can be laid on the Table only after permission has been given by the Chairman and not otherwise<sup>159</sup> and is duly authenticated by the member.<sup>160</sup>

During a calling attention regarding licences to Birla Industries, a member started reading out extracts from Dr. Hazari's report on Industrial Licensing. Another member demanded that the member quoting from the report should be asked to place an authenticated copy of the report on the Table. A Minister stated that in the case of a report submitted to Government the Minister concerned was the only person to decide whether it was in the public interest to so lay it. The concerned Minister, thereafter, said that he would be placing a copy of the report on the Table of the House the next day. The Chairman observed:

So far as rule 249 goes, it refers only to the Minister. If a Minister quotes from any document, he could be forced to lay it on the Table of the House. There is no such rule about private members. It is left entirely to my discretion. There are circumstances in which the use of discretion can be very dangerous and can be misused and, therefore, I would not like to create a precedent, especially because the Minister has himself said that he would lay it on the Table of the House.<sup>161</sup>

When a member insisted on laying on the Table a photostat copy of a letter he had obtained, the Deputy Chairman observed:

Any member can refer to any document, he may read out or he may give a summary; that is permissible, but not laying on the Table of the House. That is a discretion of the Chair. I will not allow it to be laid on the Table of the House.<sup>162</sup>

There have been a number of instances when private members have been permitted to lay on the Table papers and documents. Some important instances are mentioned below:

A member referred to a telegram he had received in connection with the strike in a public sector undertaking. After the Leader of the House replied, the member sought the Chairman's permission to lay the telegram on the Table, which was granted.<sup>163</sup>

When a member, in support of his resolution, referred to the contents of some letters which certain persons had sent to Government, the Deputy Chairman ruled that although the member had not read the letters, in view of the fact that he had referred to them on the floor of the House and alleged that Government had not replied to them, he should place those letters on the Table. The member said that he would.<sup>164</sup>

A member placed on the Table a copy of a “confidential memorandum presented to the Joint Committee on the Companies Bill, 1953, on behalf of some of the representatives of Managing Agency Houses in the country” to which the member had made a reference in his speech.<sup>165</sup>

The Leader of the Opposition (Shri S. Jaipal Reddy) laid on the Table a copy of the letter dated 11 November 1991, of the Minister of Finance alongwith an Annexure to the President of the World Bank. [On the same day in the afternoon, the Minister of Finance also laid on the Table a copy of the said letter together with its enclosure.]<sup>166</sup>

On a subsequent occasion, the Leader of the Opposition (Shri S. Jaipal Reddy) was permitted to lay on the Table photostat copies of the following papers in connection with the award of a contract to Asea Brown Boveri (ABB) Company, which he had sought to lay while raising a discussion on the subject:

- (i) Tender Committee Note.
- (ii) Note of Member (Electrical), Railway Board.
- (iii) D.E.A. Note dated the 7 February 1992.
- (iv) Minutes of the Inter-Ministerial meeting held on the 10 February 1992.
- (v) Memorandum No. 87/F(FEX)/115/1/ADB, dated the 30 October 1991.
- (vi) Recommendations of the Tender Committee against Global Tender G-140/R (Commercial Rebids) for procurement of 6000 HP 3-phase AC Electric Locomotives with transfer of technology.<sup>167</sup>

A member sought to lay on the Table certain papers relating to Draft Eighth Five Year Plan. The Deputy Chairman, after perusal, permitted a photostat copy each of the following papers relating to the matter to be treated as papers laid on the Table:

- (i) The World Bank/IFC/MIGA Office Memorandum, dated the 10 June 1992; Sub.: Fiscal Adjustment and the 8<sup>th</sup> Plan.
- (ii) The World Bank/International Finance Corporation Office Memorandum, dated the 10 June 1992; Sub.: Eighth Plan.
- (iii) Eighth Plan—Education Sector.
- (iv) Industry—VIII Plan.<sup>168</sup>

A member was permitted to lay on the Table a set of papers authenticated by him as comprising a true copy of a paper captioned 'A Note on the import of sugar by Department of Food in 1989.'<sup>169</sup>

A member laid on the Table a copy each of the communications exchanged between the Joint Secretary of the Ministry of Home Affairs and the Chief Secretary of West Bengal in connection with the Purulia incident.<sup>170</sup>

On 4 December 2002 during the short duration discussion on public sector undertakings a member alleged about irregularities in the sale and resale of Airport Centaur Hotel, Mumbai and quoted from some documents. The Vice-Chairman then directed him to authenticate and lay the said documents on the Table of the House. Accordingly, as requested by the member, the Chairman accorded permission and the following papers were treated as deemed to have been laid on the Table of the House and the same was published in Parliamentary Bulletin Part-II dated the 11 December 2002:-

- (i) Sale agreement dated the 18 April 2002 between Hotel Corporation of India Limited and Batra Hospitality Private Limited.
- (ii) Communication dated the 1 January 2002 from Shri Arun Das, Vice-President - Investment, JP Morgan Private Limited to Shri A. L. Batra, C&MD, A.L. Batra Group, New Delhi.
- (iii) D.O. No. 18050/130/2001-AI dated the 2 January 2002 from Shri Sanat Kaul, Joint Secretary, Ministry of Civil Aviation to Shri R.C. Agarwal, Managing Director, Hotel Corporation of India, Mumbai Airport.
- (iv) Letter No. HQ:ACCTS/440:501:410 dated the 4 January 2002 from Shri R. C. Agarwal, Managing Director to Shri Sanat Kaul, Joint Secretary, Ministry of Civil Aviation.
- (v) D.O. No. 7/37/2001-MOD (Vol. II) dated the 22 January 2002 from Shri K. K. Gupta, Ministry of Disinvestment to Shri Sanat Kaul, Joint Secretary, Ministry of Civil Aviation.
- (vi) Letter No. BHPL/PER/B-91/180 dated the 22 November 2002 from Shri S. Iyer, Manager Personnel, Sahara Hospitality Private Limited (formerly known as Batra Hospitality Private Limited to Shri P.S. D'Souza, Deputy General Manager, Hotel Corporation of India, Mumbai.
- (vii) Letter dated the 23 October 2002 by Shri Sanjay Nirupam, M.P. to Shri Atal Bihari Vajpayee, Prime Minister of India<sup>171</sup>.

A member sought to lay on the Table a copy of the report of the steering group constituted by the Planning Commission on Foreign Direct Investment (FDI) (August, 2002), to which he and some other members had made a reference during the discussion on a motion on

FDI in multi-brand retail sector held on 6-7 December 2012. The Chairman permitted the member to lay on the Table a copy of the said report.<sup>172</sup>

*Permission to lay a paper not granted*

A member wanted to place on the Table a copy of a letter alleged to have been written by Shri M.O. Mathai to Miss Padmaja Naidu, Governor of West Bengal, in which Shri Mathai was said to have confirmed an allegation made by a member in the House against the Prime Minister, Shrimati Indira Gandhi. The Chairman made his own inquiries in the matter from the addresser as well as the addressee on the basis of a document supplied by the member and gave the following ruling:

A House of Parliament is a privileged place since the parliamentary proceedings enjoy certain immunities under our Constitution. In my opinion, private correspondence of individuals cannot be laid on the Table of the House and thus given immunities which they will not otherwise enjoy. I cannot, therefore, allow the copy of the letter in question to be laid on the Table of the House. Members of Parliament enjoy freedom of speech in the House. But I consider it to be an unhealthy practice for the members to use their freedom of speech for making charges on the basis of statements contained in private correspondence of individuals who are not entitled to use the floor of this House for making any statement.<sup>173</sup>

A member sought permission to lay a statement of his party's Secretary regarding an incident which was referred to by another member in the House. The permission was not given as the member did not give previous notice, did not show the paper to the Chairman and "it would not be in order to permit such a statement to be laid on the Table of the House and thereby make it a part of the proceedings of the House."<sup>174</sup>

On 27 July 2005, the Leader of Opposition sought permission to lay the entire transcript of a television interview that he had referred to while participating in the short duration discussion on situation arising due to increasing incidents of cross border terrorism and terrorist acts in the country, particularly with reference to the attack in Ayodhya. The Chairman did not permit the document to be laid on the Table of the House as it was neither duly authenticated nor the member had formally laid it and hence it was not treated as part of the proceedings of the House.<sup>175</sup>

A member sought permission to lay a communication written by the Chief Minister of Delhi to the Prime Minister, to which he had referred while participating in the short duration discussion on the Liberhan Commission Report and trial of Babri Masjid case on 9 December 2009. Permission was not granted and the paper was not treated as deemed to have been laid on the Table of the House in view of the technical

flaw in the authentication and the ruling given by the Chairman on 31 March 1967 that private correspondence of individuals cannot be laid on the Table of the House.<sup>176</sup>

A member sought permission to lay on the Table a copy of the 'Memorandum of the Kannada Development Authority'. The permission was not granted as the request made by the member was not in conformity to the requirements laid down in the Directions by Chair and the document (in original) was returned to the member.<sup>177</sup>

*Quoting from copy of a document*

A member started reading from a letter sent by a Superintendent of Police to a company. On the Deputy Chairman questioning the member, he admitted that it was not the original letter but a cyclostyled copy of it. The Deputy Chairman did not permit him to read it holding that the member could read only from an original or certified copy thereof and if the member was prepared to place it on the Table.<sup>178</sup>

*Laying or quoting from secret documents (CBI report)*

When a member quotes from a secret document which has not been disclosed in public interest and seeks to lay it on the Table, he is required to submit the document or a copy of it to the Chairman who may consult the Government in the matter before deciding whether the document should be allowed to be laid on the Table. However, members are expected to use their discretion in the use of material that gets into their hands.<sup>179</sup>

After Question Hour was over a member claimed that he had a copy of the CBI report on certain allegations against two Chief Ministers and some other Ministers of the Government of Orissa and also of the findings of the Cabinet sub-Committee thereon and asked for the Chairman's permission to lay a copy of the documents on the Table of the House. The Chairman did not give permission and asked the member to supply the documents to him so that he could examine them and decide. Later in the day, when the member tried to quote from the CBI report, the Chairman said that the CBI report was a Government document and had not been laid on the Table. The Chairman, therefore, did not permit the member to quote from it and again asked the member to give him a copy of the documents so that he could consult the Government and decide. The Chairman stated that a non-official member could not lay any paper on the Table of the House except with the permission of the Chairman. After a few days the Chairman gave the following ruling after examining the papers:

I have since seen the papers given by Shri Lokanath Misra and also consulted the Government in the matter. The Government do not propose to lay the CBI report and the findings of the Cabinet sub-Committee on the Table of the House as they are of the view

that these are secret and confidential documents and as such privileged. In these circumstance, I will not be able to insist upon the laying of these documents by Government on the Table of the House.

The next question is whether Shri Lokanath Misra may be permitted to lay the papers which he has in his possession and which he claims to be copies of the CBI report and findings of the Cabinet sub-Committee on the Table of the House. I regret I cannot permit him to do so. These are in their very nature confidential and secret documents and as such I cannot permit them to be laid on the Table of the House. Besides, for obvious reasons, Shri Lokanath Misra cannot authenticate the papers he desires to lay on the Table.

As to how far Shri Lokanath Misra can, during the course of his speech in the House, make use of the contents of these papers, I would only say this much that the matter should be left to the good sense and discretion of the member himself. <sup>180</sup>

When a matter regarding bugging of telephones of some Members of Parliament, MLAs, Ministers, etc., was being raised, there was demand for laying the report of the CBI on tapping of telephones. The Prime Minister in reply, *inter alia*, stated as follows:

The CBI report is not the Commission of Inquiry report. Investigating agencies' reports are not laid on the Table of the House. There has been an occasion when private members have laid some purported report of the CBI or other agencies but never in the history of this Parliament, the Government has ever laid on the Table of the House the report of the investigating agency because it will not be possible then for the investigating agency to function properly. Otherwise, I have no other thing to conceal or keep away the report from this House. In order to see that the investigating agency functions effectively, I am constrained to say... I will not share... I am guided by the rules, by laws and by conventions.

When a member stated: "This is the report. I beg to lay on the Table." The Deputy Chairman observed: "... without my permission it cannot be laid on the Table of the House... He should not do it. It is not proper."<sup>181</sup>

### **Statement by Minister**

With a view to keeping Parliament informed about matters of public importance or Government's policy in regard to various matters, Ministers make statements in the House from time to time, with the consent of the Chairman. As per the rule, no questions can be asked at the time the statement is made.<sup>182</sup> Ministers also inform the House about the outcome of their official visits abroad or about treaties signed with other countries as well as about issues of national importance.

In case a Minister wishes to make a *suo moto* statement on a matter of policy or other issues of public importance, he/she writes a letter addressed to the Chairman forwarding therewith a copy of the statement (in English and Hindi) expressing his/her wish to make a statement on the subject in the House on a specific date and time or on any other day or time as appointed by the Chairman. Thereafter, an item pertaining thereto is included in the list of business. Copies of the statement, received from the Ministry are circulated to the members when the Minister rises to make his statement in the House. However, in urgent cases on receipt of request from a Minister to make a statement on the same day, a supplementary list of business is issued, if time permits and circulated to members for their information. Statements are generally listed as the last item for the day or on the day specified by the Minister. Time is indicated only on the express request of the Minister and only if agreed to by the Chairman. However, the statement to be made by the Prime Minister is listed immediately after the question hour. At times, statements are also made by Ministers in pursuance of the direction of the Chairman. It is a convention that the Minister should make similar statement in both the Houses at least on the same day.<sup>183</sup>

#### *Circulation of copies of a statement to be made*

As per the practice copies of the statement to be made are required to be circulated to members in Hindi and English in the Chamber itself.

When a Minister was about to make a statement on the situation in Punjab, some members complained that they were not supplied with copies of the statement. When the Minister stated that the copies were on the way, the Chairman ruled that the statement should have been circulated to members immediately, even when the Minister started making the statement; otherwise it would be difficult for members to follow.<sup>184</sup>

#### *Copies of statement*

Till the Two Hundred and Fifteenth Session of Rajya Sabha (February 2009), the Ministries/Departments of the Government of India provided 300 copies of the English version and 100 copies of the Hindi version of the Minister's statement to the Table Office, well in advance of the time the Minister is supposed to make his statement. Besides this, they were also requested to provide the electronic copy of the statement in a floppy diskette.

However, presently, the number of copies of the statement proposed to be made for distribution to the members, the press and media, and other agencies has been revised. The Ministries/Departments provide

300 copies of the English version and 150 copies of the Hindi version of the statement to be made. They also provide the electronic copy of the statement in a CD. Twenty-five (25) copies each in English and Hindi of the statements regarding status of implementation of recommendations contained in the reports of the department-related Parliamentary Standing Committees are also provided by the Ministries/Department concerned.

*Time for making Statement and seeking clarifications*

A statement to be made on matters of public importance is listed in the list of business towards the latter half of the sitting of the House, either at 5 p.m. or before the House rises for the day after completion of the listed business. This practice evolved on the basis of the recommendations made by the Business Advisory Committee in its meeting held on 8 August 1985 that a Minister who wishes to make a statement in the House, may do so with the consent of the Chairman, ordinarily at 5 p.m. or thereafter unless the Chairman permits the statement to be made at some other time.

Notwithstanding the mandatory provision of the rule, a convention or practice has grown in the Rajya Sabha over a considerable period of time to permit members to seek a few clarifications on a statement made by a Minister.<sup>185</sup> Generally, the clarifications are sought immediately after the statement is made. However, if the statement is lengthy or is on a very important matter, the clarifications may be deferred and sought on the next or subsequent day.<sup>186</sup> Sometimes clarifications have spilled over to the next day also.<sup>187</sup>

For instance, on Friday, 22 November 1991, three statements were made; clarifications on two of them were sought on Monday, 25 November 1991; clarifications on the third statement were sought on Tuesday, 26 November 1991.

The Minister gives a reply to all the clarifications together immediately or on the next day,<sup>188</sup> or on a subsequent day,<sup>189</sup> depending on the business of the House or the subject-matter of the statement.

However, no clarification can be sought after the Minister's reply.

On 16 August 1993, while the Minister of State in the Ministry of Home Affairs Shri Rajesh Pilot, was replying to the clarifications on the statement made by him, a member sought to ask some more questions. Thereupon, the Vice-Chairman gave his ruling, "There cannot be any clarifications after the Minister's reply."<sup>190</sup>

*Clarifications only on suo motu statement*

In view of the long-established practice in the Rajya Sabha in permitting members to seek clarifications on a statement made by a Minister,

sometimes a question arises whether the statement made by the Minister is a *suo motu* statement or is in response to some observations made by members on some matter. In the latter case, ordinarily no clarifications are permitted.

While the Prime Minister was replying to certain points raised by some members regarding purchase of Bofors Guns, a member wanted to seek a clarification thereon. The Chairman ruled that if the Prime Minister made a *suo motu* statement, the member was entitled to seek clarifications. The Prime Minister's statement was just in response to members' questions. Hence no clarifications were permitted to be sought.<sup>191</sup>

As directed by the Chairman, the Minister of Finance laid a copy of the letter written to the World Bank.<sup>192</sup> A demand was made the next day that the full report of the World Bank be laid on the Table. At the end of the day the Minister wanted to make a statement in response to the points raised but when some objections were taken thereon, he was permitted to lay the statement on the Table.<sup>193</sup> Members could not, therefore, seek clarifications on the statement. Next day there took place a procedural controversy whether the statement laid amounted to a *suo motu* statement and the members had a right to seek clarifications thereon<sup>194</sup>. The Deputy Chairman ruled that the statement which the Finance Minister had laid on the Table was not a statement of the type on which clarifications could be allowed.<sup>195</sup>

However, on an occasion, as per the direction of the Chairman when the concerned Minister came to the House to make his statement on the Narmada Sarovar Project in response to special mentions made on the subject by members a couple of days ago, the Deputy Chairman clarified that it was a statement made to clarify points raised by members and no further clarifications should be sought. But members did not agree. Eventually, the making of the statement was deferred by more than four hours with the direction that copies of the statement in English and Hindi should be got ready for circulation amongst members. Thereafter, the statement was made and clarifications thereon were permitted.<sup>196</sup>

If, however, a statement is not made but the Minister is permitted to lay the statement, clarifications thereon may be permitted at a time which may be fixed by the Chair.<sup>197</sup>

A statement was laid on the Table on 9 May 1972, regarding suicide of a scientist of IARI, New Delhi. Members sought clarifications the next day. A further statement was laid clarifying the points on 16 May 1972. On 18 May 1972, a short duration discussion was held on the subject.

On 27 August 2012, the Prime Minister read out a few paragraphs of the statement regarding performance audit report on allocation of coal blocks and augmentation of coal production and amidst din laid on the Table remaining part of the statement. However, no clarifications were sought.

Thus, the practice of seeking clarifications has become an integral part of the procedure of the House. The House seldom forgoes this ‘right’. The House may not use the ‘right’ when opportunity is otherwise made available for discussion on the subject-matter of the statement;<sup>198</sup> or a statement may be made or laid without seeking clarifications by the members for want of time.

The Prime Minister made a statement on the Jawahar Rozgar Yojana. No clarifications were sought thereon on the assurance that the House would discuss the statement and the scheme,<sup>199</sup> which was done on 12 May 1989.

The advantage of the practice is that it provides an additional opportunity to members to discuss a subject of public importance. It enables the members to extract a little more information or find out a little more indication of Government’s mind. However, the practice or procedure also poses a problem both to the Chair as well as to the House as a whole. The Chair faces the problem because at a particular time there are always a number of members wanting to seek clarifications and it becomes difficult for the Chair to choose who, out of so many members wanting to speak, should be called. The problem before the House is, as elsewhere in other Parliaments, paucity of time. If the process of seeking clarifications gets prolonged or develops into a debate on a statement it consumes a lot of time.

During the 139<sup>th</sup> Session (1986), 18 hours were spent on clarifications on statements of Ministers; during the 159<sup>th</sup> Session (1991), 21 hours, during the 155<sup>th</sup> Session (1990), 22 hours and 25 minutes and during the 153<sup>rd</sup> Session (1990), 23 hours and 19 minutes were devoted to seeking clarifications. Some statements have evoked 3-4 hours of clarifications and on an occasion one statement consumed seven hours spread over three sittings due to clarifications (however, the statement was of extreme importance, namely, the escape of an accused in the Rajiv Gandhi Assassination case).<sup>200</sup>

On an occasion the Deputy Chairman observed:

There is no difference these days between observations made during calling attention and clarifications on Ministers’ statements. On both the occasions members made speeches, “only the nomenclature is different.”<sup>201</sup>

*Regulating clarifications on a statement*

A sort of regulatory measure was adopted by the Chairman who laid down the following procedure regarding clarification on Minister's statement:

- (i) Only one member from a party/group be called to seek clarification on a Statement.
- (ii) If there are more than one member to seek clarifications, the request received first in point of time may only be accepted ignoring the request from another member belonging to the same party/group received later in point of time.
- (iii) Requests for seeking clarifications on a statement should be made before the Minister makes the statement; those received subsequently may not ordinarily be entertained.<sup>202</sup>

Subsequently, the Business Advisory Committee considered the matter and recommended the following procedure:

- (i) Only one member from a party/group having a strength of four or more members may be called to seek clarifications on a statement; and so far as the Congress (I) party is concerned, 2-3 members from that party may be called to seek clarifications.
- (ii) Members belonging to a group whose strength is less than four may be grouped together and given a chance to seek clarifications by rotation, not more than three on a statement.
- (iii) Names of members who may be called to seek clarifications may be supplied to the Chair by Leaders/Whips of the parties/groups.
- (iv) No member should take more than three minutes to seek clarifications.<sup>203</sup>

This recommendation of the Committee was implemented towards the last three days of the 159<sup>th</sup> Session when the statements were made. Some members objected to the new procedure on the ground that it curtailed their freedom and right to seek clarifications. However, the Leader of the House observed, "it is necessary for all of us to understand that there is certain discipline which we have to follow. In the Business Advisory Committee, all the political parties are represented. ...This is the commitment we have given."<sup>204</sup>

Instead of seeking clarifications on statements then and there, it is open to members to raise discussion on a Minister's statement by tabling a suitable notice. There have been a number of instances when the House has discussed important Ministerial statements by way of short duration discussion or motion.<sup>205</sup> A statement may be taken up for immediate

discussion also.<sup>206</sup> There have also been instances when statements made by Ministers/Prime Minister were converted into general discussions on subsequent days.<sup>207</sup>

The House held a six-hour discussion on 29 July 1982 on the statement made on the previous day on Kuo oil deal which was the subject-matter of the Forty-seventh Report of the Public Undertakings Committee. The Bhopal Gas tragedy,<sup>208</sup> securities scam,<sup>209</sup> Textile policy,<sup>210</sup> racial riots in South Africa,<sup>211</sup> etc. were taken up for discussion on the basis of statements made by the concerned Ministers. The statement on demolition of the Ram Janam Bhoomi Babri Masjid structure was taken up for immediate discussion.<sup>212</sup>

#### *Statement on Direction from the Chair*

A statement is also made by a Minister consequent on a direction made by the Chair. In such a situation, no supplementary list of business is issued and circulated to the members.<sup>213</sup>

#### *Statement when calling attention already admitted*

A Minister makes a statement in response to a calling attention also. However, that does not prevent a Minister from making a *suo motu* statement on the same subject without waiting for an opportunity to do so when a calling attention is taken up.

When the Minister was about to make a statement on the burning of huts of Harijans in Moradabad, Uttar Pradesh, a point of order was raised to assert that the Minister could not make a statement on a subject which was likely to be admitted for the next day. The Chairman suggested that the Minister might postpone the statement till the calling attention was taken up. The Leader of the House drew the Chairman's attention to rule 251 and stated that the Minister was entitled to make a statement on the floor of the House after seeking Chairman's permission irrespective of the fact whether a calling attention or special mention was pending. As there was controversy on the point, the House was adjourned earlier than scheduled for lunch recess for consultation in the Chairman's Chamber. After the House reassembled the Deputy Chairman announced that the direction of the Chairman was that the Minister might be allowed to make the statement, no questions should be asked thereon and the calling attention on the subject would be admitted for the following day for regular discussion.<sup>214</sup>

#### *Statement regarding Bill replacing ordinance*

Whenever a Bill seeking to replace an Ordinance, with or without modification, is introduced in the House, a statement explaining the circumstances which had necessitated immediate legislation by Ordinance,

is laid on the Table along with the Bill, and copies of the statement are circulated to members.<sup>215</sup>

*Statement regarding status of implementation of recommendations of Department-related Parliamentary Standing Committees*

On 24 September 2004, the Chairman, Rajya Sabha made the following direction in pursuance of provisions of rule 266 of the Rules of Procedure and Conduct of Business in the Council of States:

The Minister concerned shall make once in six months a statement in the House regarding the status of implementation of recommendations contained in the reports of the Department-related Parliamentary Standing Committees of Rajya Sabha with regard to his Ministry.<sup>216</sup>

This has now become a regular practice. To make such a statement, the Minister gives an advance notice to the Secretariat, along with a copy of the statement, indicating the date on which he/she desires to make the statement. Accordingly, an item is included in the list of business. However, in practice, such statements are usually laid on the Table of the House and are not made/read out by the Ministers.

## Division

### *General Procedure*

Save as otherwise provided in the Constitution,<sup>217</sup> all questions at any sitting of either House or joint sitting of the Houses are determined by a majority of votes of the members present and voting, other than the Speaker or the person acting as the Chairman or the Speaker.<sup>218</sup>

“Ordinarily, questions are decided in the House by a vote, a simple majority being required to affirm or negative a question. Sometimes a vote is carried to a division, which is a physical separation into two lobbies of those members wishing to vote for and those wishing to vote against a question.”<sup>219</sup> Though due to introduction of automatic vote recorder system of voting in the House, physical separation of the House has become rare, the word ‘Division’ continues to be used for the voting process.

On the conclusion of a debate, the Chairman puts the question before the House and invites those who are in favour of the motion to say “Aye” and those against the motion to say “No”.<sup>220</sup> Then the Chairman says (tentatively) “I think the Ayes (or the Noes, as the case may be) have it.” If the opinion of the Chairman as to the decision is not challenged, he says twice (definitely). “The Ayes (or the Noes, as the case may be) have it” and the question before the House is determined accordingly.<sup>221</sup> If the opinion of the Chairman as to the decision of a question is challenged, he

may, if he thinks fit, ask the members who are for “Aye” and those for “No” respectively to rise in their places and, on a count being taken, he may declare the determination of the House. In such a case, the names of the voters are not recorded.<sup>222</sup>

When the resolution extending the President’s Rule in Tamil Nadu was put to vote, there was a demand for division. The Chair asked the members to stand in their places and after taking a count for “Ayes” and “Noes” declared the resolution as adopted. Objection was taken by a member to this procedure but the objection was not sustained in view of rule 252(3).<sup>223</sup>

If the opinion of the Chairman as to the decision of a question is challenged and he does not adopt the above procedure, he orders a “Division” to be held.<sup>224</sup> After a lapse of three and a half minutes, the Chairman puts the question a second time and declares whether in his opinion the “Ayes” or the “Noes” have it.<sup>225</sup> If the opinion so declared is again challenged, votes may be taken by operating the automatic vote recorder, or the members going into the Lobbies.<sup>226</sup>

Questions are generally decided by voice vote unless the opinion of the Chairman is challenged by members and they demand a division, in which case the Chairman orders the division. When a question is decided by a voice vote, the Chairman does not announce the numbers of “Ayes” and “Noes”.

In theory, he (the Chair) judges by the loudness of the respective cries whether the ayes or the noes are the more in number. In practice his decision is based on his knowledge of the balance of opinion in the House. Unless some member challenges his decision by calling out ‘no’ when he says that he thinks the ayes have it or *vice versa*, the Chair declares that the ayes or the noes, as the case may be, “have it”. If, however, the minority or any individual member challenges his decision, he directs the lobby to be cleared.<sup>227</sup>

If a member wants to challenge the decision of the Chair on a question, he must do so immediately after the Chair expresses the view “I think the Ayes/Noes have it” and before he declares the result.

On an occasion, a private member’s resolution was declared as adopted by voice vote. Some members objected stating that before the result was declared they had demanded division. The matter led to a controversy and the House was adjourned for a while for consultation. After the House reassembled, two amendments were permitted to be moved by the mover and the resolution, as amended, was put to vote and adopted again.<sup>228</sup>

When a division is about to be taken, only members of the House have the right to be present in the inner lobby and all other persons must vacate it. In other words, the lobby has to be cleared for a division. A member of the other House, who is a Minister can be present in the House during a division though he has no right to vote. It is, however, better if he is not present in the House to avoid objection.

When an amendment to the Motion of Thanks on the President's Address was being put to vote, a member requested all the Ministers except the Prime Minister who were not members of the House, to vacate the House before voting. The Leader of the Opposition (Shri Lal K. Advani), however, did not agree with the suggestion. He was of the opinion that Ministers who were not members of the House could remain in the House. Thereupon, the Chairman observed, "Nobody who is not a member of this House will be allowed by me to vote. That is the end of the matter."<sup>229</sup>

Before the motion for consideration of the Constitution (Sixty-fourth Amendment) Bill was put to the vote of the House, an objection was taken by a member about the presence of Ministers who were not members of the House. The member wanted that the concerned Ministers should be asked to leave the House while the division was in progress. The Chairman, however, overruled the objection, observing that the Chair had no right to ask them to go out. It was at their discretion. They should not, however, go into the inner lobby.<sup>230</sup>

As per the practice where there are several divisions on the clauses of a Bill or amendments to clauses, these are held one after the other and the lobby is not cleared again and again.

### **Operation of Division Bells**

The Division Bells of the Rajya Sabha and the Lok Sabha are painted in red and green colour, respectively.

The distinction in the sound of these two kinds of Division Bells is that in the former case the bell rings intermittently while in the latter case it rings continuously.

Whenever a division is called in the Rajya Sabha, the Secretary-General operates a switch at his/her Table, which causes the Division Bells of the House to ring for three and half minutes at hundred twenty-four points in various parts of the Parliament House, Parliament House Annexe and Parliament Library Building in order to summon the members to the House.

The Division Bells for both the Chambers of Parliament have been installed on all the floors of the Parliament House, Parliament House Annexe, but more particularly in or near Committee Rooms, Library Rooms, Ministers' Rooms, Notice Office, Post Office, Refreshment Rooms and Waiting Halls.<sup>231</sup>

*No speeches during a division*

When a division has been called and the lobbies are being cleared, the debate is closed and no member can rise to speak, or address the House. When the lobbies are being cleared, no speech, or submission is recorded in the proceedings.

*Discretion of the Chair not to allow a division*

In order that the House may not be forced to a division on trivial occasions, the Chair has the power, if he thinks a division is being unnecessarily claimed, to disallow a request for a division. He can also call upon the members, who support and those who challenge his decision, successively to stand up, and thereupon, as he thinks fit, to declare that "the ayes (or Noes) have it", as stated earlier:

On an occasion when a member asked for a division on his amendment, the Vice-Chairman invited the member's attention to sub-rule (3) of rule 252 and emphasised the words "if he thinks fit" in that sub-rule and observed that the concerned member did not genuinely think it fit to ask for a division.<sup>232</sup>

*Division by Automatic Vote Recorder*

If the Chairman decides that the votes should be taken by operating the automatic vote recorder, he directs accordingly and the machine is put into operation. Each member is assigned a fixed seat and a member casts his vote from there by pressing the requisite button provided for the purpose. In December 1994, a new computer-controlled Integrated Sound, Simultaneous Interpretation and vote recording system was installed in the Rajya Sabha Chamber. Under that system, each member has been provided with an integrated microphone and voting console which contains Four Buttons—"PRES"—"P" for Present; "ABST"—"O" for Abstain; "AYES"—"A" for Yes and "NOES"—"N" for No. Also there is a separately situated security button in "Red" (Vote Activation) provided on the LANGUAGE SELECTOR which has to be pressed in addition to the voting button. Both buttons have to be pressed simultaneously at the time of closing of voting in order to register a valid vote.

For example, if the voting period is ten seconds, then the buttons kept pressed at the tenth second will record vote. In case either one or both these buttons are released prior to close of voting period, the vote will not be registered.

During the voting period, the member can change his vote at any time. The vote cast at the time when the voting period is ending will only be recorded. The countdown time is indicated on the Total Result Display Boards/Large Screen Hall Display. There are two types of Display Boards provided in the Chamber. One set displays the individual results and the other, total results.

The Individual Result Display Panels are located on either side of the Chairman's seat, arranged in a geographical layout similar to the seating arrangement of the Chamber. For each member, the corresponding division is indicated on the Panel alongwith display array which shows: a green "A" for Ayes, a red "N" for No, a yellow "O" for Abstain, and an amber "P" for Present.

These are shown instantaneously changing while voting and is "frozen" at the end of the voting, by three characters A, N or O. The total results come on Display Panels located in galleries on left and right sides of the Chair.

On the Secretary-General's Table, a Key-Board is fixed by operating which, at the Chairman's direction, the Secretary-General sets the voting process in motion and before doing so also explains the procedure to the members in the House, if so directed by the Chair. The voting process starts with a musical sound on Large Screen Display in two corners of the Chamber.<sup>233</sup>

After the result of the voting appears on the Indicator Board, the Secretary-General presents the totals of "Ayes" and "Noes" to the Chairman. The result of the division is announced by the Chairman and cannot be challenged.<sup>234</sup>

A member, who is not able to cast his vote by pressing the button due to any reason considered sufficient by the Chairman, may be permitted to have his vote recorded verbally by stating whether he is in favour of or against the motion, before the result of the division is announced.<sup>235</sup> Similarly, if a member finds that he has voted by mistake by pressing the wrong button, he may be allowed to correct his mistake before the result of the division is announced.<sup>236</sup>

On 15 December 1961, the Deputy Chairman made the following announcement in connection with the correction of voting figures on an amendment to a clause of the Constitution (Eleventh Amendment) Bill, 1961:

...many members stood up and represented that they had not correctly understood the proposition before the House and had not, therefore, been able to record their votes properly. Some members pointed out that they had not voted at all; some members

stated that they had voted *for* the amendment by mistake; and one member represented that he had voted *against* the amendment instead of *for* it. I permitted those members to give their names and their names were accordingly recorded and taken into account for the purpose of declaring the decision of the House. The decision as announced was: Ayes...25 Noes...134.

On checking up with the photostat copy of the division list, it is found that ten members whose names had been recorded as stated above, had in fact taken part in the voting and their names are included among the "Ayes" list. What these members had requested was only to correct their mistake and transfer their names from the "Ayes" list to the "Noes" list. In announcing the result of the division, although the names of those ten members were included in the "Noes", they were not excluded from the "Ayes". One member who had voted with the "Noes" by mistake but who wanted to correct his mistake was also included in the "Ayes" list at the time of announcing the decision. His name had not also been taken out of the list of "Noes".

Under sub-rule (5) of rule 214A (old) of the Rajya Sabha Rules, if a member finds that he has voted by mistake by pressing the wrong button, he can bring the matter to the notice of the Chair before the result of the division is announced and would be allowed to correct his mistake.

It will thus appear that there was an error in the announcement of figures of the division. The House has already taken a decision on the amendment and this error has absolutely no effect on it. However, I consider that the correct position should be on record.

I have accordingly directed necessary corrections to be made in the records of the House of December 12, 1961. The result of the voting as so corrected will be: Ayes.. 15; Noes.. 134.

Thereafter, a member on a point of order, pointed out that the ruling had created a wrong precedent and the voting figures could not be changed after the result was announced. The Deputy Chairman referred again to (old) rule 214A corresponding to present rule 253(5) and stated:

On the day on which the votes were recorded several members represented that they had made wrong voting and, therefore, their vote was recorded by voice. This could not be checked up with the photostat copy which came to the Office only the next day. And I find that ten persons have voted twice. What is now sought to be done is only to correct the records in consonance with the photostat copy, and nobody's vote is taken away either for "Ayes" or "Noes." I find that there is no point of order and the ruling given is correct.<sup>237</sup>

*Division by distribution of slips*

The method of division by distribution of slips in the House is used only when the AVR machine goes wrong. Whenever it becomes necessary to hold a division by this method, members are supplied at their seats with “Ayes”/“Noes” printed slips for recording their votes. They are printed in different colours for use of members, block-wise. On these slips, members are required to record votes of their choice by signing and writing their names, division numbers and dates legibly at the appropriate places.

After the votes have been recorded, the division clerks collect the slips from each member and handover the same to the Officer at the Table who scrutinises the same, counts the votes recorded and compiles the result. The result so arrived at is then announced by the Chair and thereafter incorporated in the printed debates, with particulars of each member’s vote.

On the motion for consideration of the Constitution (Sixty-fifth Amendment) Bill, 1989, the Chairman directed “in order to avoid any confusion, slips are distributed. Each member will mention his division number and will write Yes or No and put his signature so that we will have the record.”<sup>238</sup>

*Division by going into the Lobbies*

When the Chairman decides that the votes should be recorded by members going into the Lobbies, he directs the members for “Ayes” to go into the Right Lobby and those for “Noes” into the Left Lobby. In the “Ayes” or the “Noes” Lobby, as the case may be, each member calls out his Division Number and the Division Clerk while marking off a member’s number on the division list, simultaneously calls out the name of the member.<sup>239</sup>

After voting in the Lobbies is completed, the Division Clerks handover the division lists to the Secretary-General, who counts the votes and presents the totals of “Ayes” and “Noes” to the Chairman.<sup>240</sup> The result of a division is then announced by the Chairman and cannot be challenged.<sup>241</sup>

A member who is unable to go to the Division Lobby owing to sickness or infirmity may, with the permission of the Chairman, have his vote recorded either at his seat or in the Members’ Lobby.<sup>242</sup> If a member finds that he has voted by mistake in the wrong Lobby, he may be allowed to correct his mistake, provided he brings it to the notice of the Chairman before the result of the division is announced.<sup>243</sup> When the division lists are brought to the Secretary-General’s Table, a member who has not upto that time recorded his vote but who then wishes to have his vote recorded may do so with the permission of the Chairman.<sup>244</sup>

The House held a marathon sitting to vote on the 14-clause of Essential Services Maintenance Bill, 1981. During this period, the House underwent 58 divisions, 54 by automatic vote recorder and 4 by going into Lobbies.<sup>245</sup>

*Abstention not counted for ‘Present and Voting’*

As already noted in Chapter 21 dealing with Legislation, abstentions in any voting are not taken into consideration in declaring the result on any question. A member who votes “abstention” either through the electronic vote recorder or on voting slip or in any other manner does so only to indicate his presence in the House and his intention to abstain from voting. He does not record his vote within the meaning of the words ‘present and voting’ used in article 368 dealing with amendment of the Constitution.

On 13 October 1989, one member raised a point of order relating to interpretation of ‘Abstention’ in the electronic vote recorder while voting on a Constitution (Amendment) Bill. The Constitution (Amendment) Bills require a special majority of the House which has been defined under article 368 of the Constitution wherein it is said that the Bills have to be passed by a majority of not less than two-thirds of the members of the House present and voting. The member raised this issue as the electronic device was provided with three buttons, ‘Ayes, Noes and Abstention’ and his point was that if a member is present and pushes the ‘Abstention’ button, he is also voting and therefore, the total strength of the House, present and voting includes him. Therefore, what is crucial is not that he voted against the Bill but that he did not support the Bill. He was keen on ascertaining the Chair’s interpretation of ‘present and voting’, and whether the strength of those members who vote for ‘Abstention’ is also to be computed while deciding the special majority that has voted in favour or not. The Deputy Chairman observed:

I will read out what is the legal implication. But I also want to say that in common sense voting means that you are here voting ‘yes’ or you are voting ‘no’. ‘Abstention’ is for computing how many members are present, to correct it. That is what my understanding is. I will read out the legal paper that the Secretariat has found out. Article 368(2) of the Constitution, *inter alia*, provides that a Bill to amend the Constitution is required to be passed in each House by the majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting. A point has been raised whether the member who abstained from voting can be deemed to be present and voting within the meaning of the article. In other words, the point is whether the abstention could be counted in any way for the purpose of voting. It is established that abstentions in any voting are not taken into consideration in declaring the result on

any question. A member who votes ‘Abstention’ either through the electronic vote recorder or on voting slip or in any other manner does so only to indicate his presence in the House and his intention to abstain from voting. He does not record his vote within the meaning of the words ‘present and voting’. The expression ‘present and voting’ refers to those who vote for ‘Ayes’ or for ‘Noes’ and not to those who are merely present but not voting either in favour or against any question before the House. This has also been the practice in this House in the past so that whenever members have abstained from voting, they have not been counted for the purpose of declaring the result of a division. Even in an election if you abstain, your vote will not be counted.<sup>246</sup>

#### *Voting by Presiding Officers*

Under the Constitution, the Chairman or the person acting as such cannot vote on a division; he has only a casting vote which he must exercise in the case of equality of votes.<sup>247</sup> The Deputy Chairman, or a member of the panel of Vice-Chairmen, who is in the Chair at the time of voting, is also debarred from voting on a division and can have and must exercise a casting vote in the case of equality of votes.

#### *Casting vote by Presiding Officer/Chairman of Committee*

As stated above, the Constitution debars the person acting as the Chairman from voting in the first instance, i.e., he cannot vote on a division as an ordinary member; he has only a casting vote which he must exercise in the case of an equality of votes.

For the first time in Rajya Sabha when the statutory resolution disapproving the Code of Criminal Procedure (Amendment) Ordinance, 1991, was put to vote and there was equality of votes (39 in favour and 39 against), the Vice-Chairman exercised a casting vote to break the tie, in favour of the resolution.<sup>248</sup>

In the case of parliamentary committees, the Rules of Procedure in the Rajya Sabha contain differing provisions as regards the second or casting vote by the Chairman of the Committee. For instance, the Chairman of a Select Committee on a Bill or other person presiding over the Committee has been given a second or casting vote,<sup>249</sup> whereas in the case of Committees on Subordinate Legislation, Government Assurances, Papers Laid on the Table and House Committee, it has been specifically provided that the Chairman of such a Committee shall not vote in the first instance but in the case of an equality of votes on any matter, he shall have, and exercise, a casting vote.<sup>250</sup> The rules relating to the Committee on Petitions and Committee of Privileges are silent on this aspect.

*Result of the division*

As per established practice, whenever a voting takes place on any Bill, motion, resolution, etc., in the House and after the result of the division is announced by the Chairman, it is reflected in the Parliamentary Bulletin Part-I with a footnote that the result is ‘subject to correction’. Thereafter, the result announced in the House is tallied with the result shown in the vote recording sheets and the final result of the voting is calculated after taking into consideration the voting slips received from the members. The final result so arrived at is conveyed to the Editing (English) Section for incorporating in the final printed debates of the Rajya Sabha. However, since the 227<sup>th</sup> Session (November-December 2012), the final result of the division after scrutiny of the records is published in the Parliamentary Bulletin Part-II on the same day for information of members.<sup>251</sup>

**Points of Order***Introduction*

One of the most vexatious parliamentary practices which confronts a Presiding Officer and which he has to encounter is a point of order raised during the debate. The practice raises real problems for the Chair and causes exasperation amongst members who are prepared to abide by the rules and do not raise matters of argument or debate under the cloak of points of order. The problem for the Chair lies in the fact that, until he hears at least a substantial part of a member’s submission, he (the Chair) is not in a position to rule that it is not a point of order. The Chair may, of course rebuke a member who blatantly and frequently raises a ‘bogus’ or unwarranted point of order. But at the same time, the Chair cannot, in general, refuse to hear points of order. However, there are some situations in which the Chair may refuse to entertain the points straight away so that at least in those situations the “points of order raisers” do not have things all their own way and the time of the House is not wasted in making or hearing submissions on points which are clearly no points of order.

*What is a point of order*

A point of order is a point relating to the interpretation or enforcement of the Rules of Procedure or such articles of the Constitution as regulate the business of the House raised in the House and submitted for the decision of the Chair.

Any member can and should bring to the Chairman’s immediate notice any instance of what he considers a breach of order or a transgression of any written or unwritten law of the House which the Chair has not

perceived, and he may also ask for the guidance and assistance of the Chair regarding any obscurities in procedure. A member is entitled, in such cases only, to interrupt a debate by rising and saying, "On a point of order, Mr. Chairman" and then to lay the point in question concisely before him, although there is often some doubt amongst members as to what exactly constitutes a point of order, and the reply is quite frequently, "that is not a point of order."<sup>252</sup>

#### *Provision in the Rajya Sabha Rules*

Rule 258 of the Rules of Procedure and Conduct of Business in the Rajya Sabha makes a provision to enable a member to raise a point of order. It reads as follows:

- (1) Any member may at any time submit a point of order for the decision of the Chairman, but in doing so, shall confine himself to stating the point.
- (2) The Chairman shall decide all points of order which may arise, and his decision shall be final.

#### *How a point of order is raised*

A member who has a point of order should stand up and say 'Point of Order'. He should not proceed to formulate it until he is identified and permitted by the Chair.<sup>253</sup> Thereafter, he should proceed to speak on his point of order. While raising his point of order he should quote the specific rule or the provision of the Constitution relating to the procedure of the House which may have been ignored or neglected or violated. No member should rise or speak, either standing or sitting, when the Chairman is on his feet. The Chairman should be heard in silence and any member wanting to speak should rise only after the Chairman has sat down and called the member to speak.<sup>254</sup> Matters on which the Chairman cannot give any relief should not be made a subject of a point of order. Should a member desire to have a clarification from a Minister or object to any statement which a Minister might have made, he should say so in the House with the permission of the Chairman and should not raise it in the garb of a point of order.

#### *Procedure after a point of order is raised*

The right to raise a point of order is a valuable right of a member and can be exercised by him at any time on a matter or any business then under discussion. The point of order, when raised, has the effect of suspending the proceedings before the House. On a point of order being raised, the member who is in possession of the House at that time must give way and resume his seat.<sup>255</sup> No debate is allowed on a point of order,

but the Chair may, if he thinks fit, hear members before giving his decision. It can be raised only in relation to the business before the House at the moment; the term ‘business before the House’ means business included in the list of business for the day.

When two or more points of order are raised on a subject-matter, the Chair may take them one by one and give his decision.

A member wishing to raise a point of order has the right to be heard before a decision can be given by the Chair. On his formulating a point of order, the Chair decides whether the point raised is a point of order and, if so, gives his decision thereon, which is final. Members cannot protest against the Chair’s ruling, to do so is a contempt of the House and the Chair. Rulings given by the Chair cannot be discussed in the House nor can any clarification or explanation sought thereon.

It is perfectly in order if the Chair does not take cognizance of a point of order raised by a member. The Chair may reserve his ruling on a point of order at the moment and may deliver it on a later date. Similarly, the Deputy Chairman or a member presiding over the House may reserve a point of order for the decision of the Chairman.

#### *Who can raise a point of order*

As rule 258 provides, ‘any member’ may submit a point of order. Rule 2 defines a ‘member’ to mean a member of the Rajya Sabha. In this context, the question has been raised in the Rajya Sabha about the competence of a Minister to raise a point of order. So far as a Minister who is a member of the House is concerned, he has all the rights and privileges *qua* member of the House, though sometimes the right of such a Minister to raise or speak on a point of order has also been questioned but upheld by the Chair.<sup>256</sup>

So far as a Minister who is not a member of the House is concerned, on many occasions objection has been taken to such a Minister raising or speaking on a point of order in the Rajya Sabha and the Chair has ruled that such a Minister does have the right to raise a point of order or speak on a point of order already raised by a member.

An objection was sought to be taken to a Minister (who was not a member of the House) speaking on a point of order raised on a Bill, on the ground that the point of order was purely relating to the rights and privileges of the House and only members of the House could speak thereon. This was over-ruled by the Chairman who observed, “All Ministers are entitled to speak in either House”.<sup>257</sup>

When a Minister who was a member of the other House wanted to raise a point of order, objection was taken by a member that he (the Minister) could not do so as he was not a member of the House in view of rule 258. The Chairman referring to that rule as well as rule 2 observed:

...there is the super law of the Constitution. Article 88 reads ‘Every Minister, and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of the House...’ etc. The point relates to: ‘otherwise to take part in the proceedings.’ Does it mean ‘to take part in the proceedings’—to the same extent as any other member or to go beyond the scope of the Rules? Now here we follow the principle that earlier precedents weigh with the Chairman. I have been told that there is an instance when my predecessor had ruled that an hon’ble Minister when he is in the House, will be entitled to raise a point of order. I think it would be wrong for us to depart from what has been once decided in this House.<sup>258</sup>

When a Minister raised a point of order, a member objected that the Minister concerned had no *locus standi*, being a Minister he could be present in the House, otherwise he was a stranger to this House and the right to raise a point of order emanated from the fact that a person was a member of the House, no other circumstances permitted him to do so. The Deputy Chairman ruled:

He (*i.e.*, Minister) can participate in the proceedings. It is a procedural matter. There is a constitutional provision that he can participate in the proceedings and on that basis raise a point of order.<sup>259</sup>

#### *What is not a point of order or when a point of order should not be raised*

The rule quoted above does not envisage or elaborate upon all the situations when points of order can or cannot be raised by a member, or define precisely what is a point of order and what is not. It is also not possible to visualise all the situations in which the Chair may rule on a point of order either upholding it or negativing it. However, from the rulings given by the various Presiding Officers in the Rajya Sabha, Lok Sabha and elsewhere and precedents, some situations may be indicated when there is definitely no point of order or when a point of order cannot be raised. Some of them are described below.

#### *No point of order on Chair’s ruling*

A member cannot raise a point of order on the Chair’s ruling.

A member raised a point of order under rule 169(ii), (viii), (ix) and (xii) when another member rose to move a motion. It was clarified to

the member that rule 169 deals with conditions of admissibility and once the motion is admitted by the Chairman of the House there is no scope for raising a question on the ground of admissibility. The Chairman too agreed with the point. However, when the member insisted that he wished to raise a point of order, the Chairman maintained:

No point of order can be raised on the Chairman's decisions or rulings.<sup>260</sup>

#### *No point of order on a business not before the House*

A member cannot raise a point of order on a business that is not before the House. It can be raised only on the conduct of the proceedings and the business that is on the anvil. It should pertain to something which is before the House.<sup>261</sup>

In the course of discussion on a Bill, a member sought to raise a point of order concerning a question put to the Minister during Question Hour. The Deputy Chairman ruled it out saying that the member could not raise a point of order on something which happened that morning; he could raise a point of order concerning the debate that was going on and whatever query the member had, could be raised next day after Question Hour or the member could write a letter to the concerned Minister.<sup>262</sup>

#### *No point of order on a point of order*

When one member was explaining his point of order, another member rose on a point of order. Although the Chair was not permitting him to do so, the member pressed the Chair for listening to his point of order, for, in his opinion, his point of order was very important. Disallowing the second member's point of order, the Deputy Chairman observed, "That is not the parliamentary practice. When one point of order is raised, you cannot raise another point of order. There is no point of order on a point of order."<sup>263</sup>

#### *No point of order on a matter under Chairman's consideration*

When a member raised a point of order on a matter about which he had written to the Chairman, the Deputy Chairman observed that since it was under the consideration of the Chairman, there was no need to proceed with the point of order made by the member.<sup>264</sup>

#### *No point of order to question Minister's remark*

When a member raised a point of order on some observations of the Prime Minister on Calcutta city, the Deputy Chairman observed that the Minister could give any reply, it might be liked or not liked by a member. It could not be questioned.<sup>265</sup>

*No point of order during question hour and half-an-hour discussion*

It is now an established practice that no point of order can be raised during Question Hour, perhaps “because of the general desire to make progress during the limited time available for questions.” The Presiding Officers in the Rajya Sabha have consistently refused to allow raising of points of order during Question Hour (unless it is extraordinary).<sup>266</sup>

However, there have been some instances when exception has been made to this practice in view of the extraordinary point involved, as described in Chapter-17 relating to Questions.

For the same reason a point of order cannot be raised during half-an-hour discussion.<sup>267</sup>

*No point of order during the division*

When the Chair is engaged in collecting the voices in the course of putting the question, or during the course of a division that follows the putting of question, he will not hear a point of order; for, if he does, the division and the consequent determination of the House on a question, might last several hours.<sup>268</sup>

*No point of order asking for procedural advice*

On occasions members ask for Chair’s advice as to what procedural remedy exists for what they consider to be an unsatisfactory situation. This advice is generally asked on a point of order. The Chair in such cases may interrupt the member by telling him that he should not ask for advice by way of a point of order.

*Other instances or situations*

- (1) A point of order is not a point of privilege.<sup>269</sup>
- (2) A member shall not raise a point of order:
  - (a) to ask for information; or
  - (b) to explain his position; or
  - (c) when a question on any motion is being put to the House; or
  - (d) which may be hypothetical; or
  - (e) that Division Bells did not ring or were not heard.<sup>270</sup>
- (3) A point of order cannot be raised in respect of an item of business after that item has been disposed of. In other words, there can be no point of order in vacuum.

- 
- (4) No point of order can be raised on contradictory statements alleged to have been made by Ministers or members or regarding disqualification of a member.
  - (5) A point of order must refer to procedure and not to substantive arguments on a motion, etc.
  - (6) Points of order relating to the same matter cannot be raised by a member more than once.
  - (7) A point of order cannot be raised while the Chairman is placing a motion before the House or delivering his ruling or making observation or otherwise speaking.
  - (8) Matters on which the Chair cannot give any relief should not be made the subject-matter of a point of order.
  - (9) Points of order already decided cannot be reopened.
  - (10) A point of order on a Bill or resolution cannot be raised unless the motion in respect of the Bill or the resolution entered in the list of business has been moved and placed before the House. Similarly, a point of order regarding the admissibility of a resolution or motion or urging that a motion or resolution should not be allowed to be moved, can be raised only after the resolution or motion has been moved and placed before the House.
  - (11) The test for judging whether a point raised is a point of order or not is not whether the Chair can give any relief but is whether it involves such interpretation of the rules, directions and various provisions of the Constitution which regulate the business of the House and whether it raises a point which the Chair alone can decide.
  - (12) The Chair does not give any ruling on a point of order which raises the question whether a Bill is constitutionally within the legislative competence of the House or about the constitutionality of any declaration/agreement/treaty under discussion on a motion/resolution. It is for the House to deal with such matters.
  - (13) A point of order regarding arrangement of business should relate to arrangement of items already included in the list of business for the day; it may not be raised for inserting any new item which is not in the list of business.
  - (14) A point of order may not be raised regarding proceedings of an earlier sitting.
  - (15) There cannot be any point of order on rulings given by the Chair.<sup>271</sup>

The above list of situations when points of order should not be raised or may not be permitted to be raised, is only illustrative of the concept of point of order. No rule or ruling, howsoever elaborate it may be, may possibly avoid fictitious points of order or put an end to the raising of unwarranted points of order which may subsequently turn out to be points of disorder. The points of order tend to increase at times of acute tension or controversies in the House. In such situations they will continue to be one of the most irksome problems for the occupant of the Chair.

Generally, what happens is that when members raise points of order, the Chair has no idea what they are going to say until they make their submissions. In too many cases the point raised may not be a point of order at all but an attempt either to score a debating point or to delay the proceedings of the House.<sup>272</sup> In fact, there may well come a time when the Chair may have to consider that the proliferation of points of order on a particular occasion has reached the stage where he is justified in saying that he will hear no more.

### **Preparation of official proceedings**

The Secretary-General causes to be prepared a full report of the proceedings of the Rajya Sabha at each of its sittings and, as soon as practicable, have it published in such form and manner as the Chairman may, from time to time direct.<sup>273</sup>

### *Reporting of proceedings*

A verbatim record of everything said in the House is reported by the official Reporters, except certain words, phrases and expressions, if any, ordered by the Chair to be expunged from the proceedings of the House, or ordered by the Chair not to be recorded, when members speak without his permission.

The work relating to the preparation of a verbatim record of the day to day proceedings of the Rajya Sabha is handled by a team of English and Hindi Reporters working under the charge of the Verbatim Reporting Service in the Secretariat. The notes taken down in shorthand by the Reporters are transcribed on a computer quickly so that copies of debates become available within a few hours after the House rises for the day except on days when the House sits for unusually long hours in which case the later portions of the proceedings may be issued as a supplement on the next day. The copies of debates are generally issued in two parts, part-I containing questions, starred and unstarred and their replies and part-II containing proceedings other than questions.

Proceedings in English and Hindi/Urdu are covered by the Reporters as they take place in the House. Arrangements exist for simultaneous interpretation into English and Hindi of speeches made in some of the regional languages and in such cases the text supplied by the interpreters appears in the debates with a foot note indicating the language in which the original speech was delivered in the House. According to the established practice, a member wishing to speak in any language other than English and Hindi may do so with an hour's prior notice.

When prepared speeches or statements are read out by Ministers or members and also when speeches are delivered with the help of copious notes, the prepared speeches, statements, notes, etc., are to be handed over to the Reporters after the speech has been made in the interest of accurate transcription.<sup>274</sup>

Arrangements exist in the House for simultaneous digital and tape recording of the entire proceedings. This helps Reporters to ensure correct transcription and also confirm therefrom about the accuracy of the proceedings taken by them in case of doubt.

The Reporters' copy is treated as authentic record of proceedings. If a dispute arises as to the correctness of the proceedings recorded by the Reporters, these may be cross checked with the digital/tape recordings.

On an occasion, a Reporter was asked to read out from his note-book the relevant portion of the debate when there was controversy about what a member said was parliamentary or unparliamentary.<sup>275</sup>

An electrostat copy of every speech delivered or question put by a member on a particular day and taken down by the Official Reporters is ordinarily forwarded to him for confirmation the next morning and it has to be returned duly approved to the Editor (English) within twenty-four hours and in any case not later than 12 noon on the third day. A verbatim record of proceedings in electronic form is also uploaded on the Rajya Sabha website at the end of the day. Corrections received later than the time specified above cannot be incorporated in the manuscripts of the debates to be sent to the Press. In case of delay the version as taken down by the Reporters is utilised.

In case of quotations, copies thereof have to be supplied by members to the Reporters, except in case where the page, etc., of some well-known report, which is readily available has been specifically referred to.

In case of quotations in Indian languages, *slokas*, etc., the quotation followed by its meaning, if it has not already been given has to be filled in by the member when his speech is sent to him for approval.

The official report has to be a correct reproduction of the speeches actually delivered by the members in the House. The copies of the speeches that are sent to them are for the purpose of confirmation and correcting obvious inaccuracies; and not for the purpose of improving their literary form or altering their substance by additions or deletions. Only minor corrections, *viz.*, those in respect of grammatical errors, misreporting of quotations, figures, names, etc. are permissible. Corrections, if any, are to be made by members neatly and legibly and in ink in order to ensure their correct incorporation in the printed proceedings.<sup>276</sup>

The official report is a record of the spoken word. It does not, therefore, lend itself to descriptive reporting. For example, angry gestures, loud applause or derisive laughter are not reflected in the official report unless they are subsequently referred to by a member. Only observance of silence by members at the end of obituary references and walk-outs are normally indicated.

#### *Reporting of proceedings of Committees*

A verbatim record of the proceedings of a Parliamentary Committee is kept when a witness is summoned to give evidence.<sup>277</sup> Relevant portion of such a proceedings is forwarded to the witness and the members concerned for confirmation and return by a specified date. The verbatim proceedings are treated as confidential and are not made available to anyone without the permission of the Chairman. The witness to whom the proceedings are sent for confirmation is informed that the proceedings have to be kept confidential and no part thereof should be published by him. So far as other proceedings of the Committee are concerned, a record of the decisions of the Committee is maintained<sup>278</sup> in the form of Minutes.

#### **Expunction of words from proceedings of the House**

If the Chairman is of opinion that a word or words has or have been used in debate which is or are defamatory or indecent or unparliamentary or undignified, he may in his discretion, order that such word or words be expunged from the proceedings of the House.<sup>279</sup> In practice, the scope of this power has been enlarged and in some cases, the Chairman has ordered, in his discretion, the expunction of words which he considered prejudicial to national interest or to the maintenance of friendly relations with a foreign State; derogatory to high dignitary including heads of friendly foreign States,<sup>280</sup> offending national sentiments or the religious susceptibilities of a section of the community; likely to discredit the Army, not in good taste or otherwise objectionable and likely to bring the House into disrepute. An expunction from the proceedings may be ordered,

- (i) by the Chairman *suo motu* if he holds certain words as defamatory, indecent, unparliamentary or undignified;
- (ii) when the Chairman's attention is drawn by a member or a Minister to objectionable words at the time they are uttered or subsequently and if the Chairman agrees;
- (iii) when the Chairman's attention is drawn by an officer of the Secretariat or otherwise to the objectionable words and if the Chairman agrees;
- (iv) where a member himself requests that words from his speech may be expunged and if the Chairman agrees.

A member requested the Chairman that a supplementary question which he had put under misunderstanding should be expunged. The Chairman did not agree stating that the member's explanation would go on record.<sup>281</sup>

- (v) if derogatory remarks are used by members against each other;

There were some altercations between some members during a debate. A member rose on a point of order seeking withdrawal of some remarks made by another member. Before the House adjourned for the day the Deputy Chairman, *inter alia*, observed that she had seen the records and those remarks would be removed.<sup>282</sup>

- (vi) even when an expression is withdrawn by the member who used it;

A member had made certain remarks which he, upon the Chairman's direction, withdrew. However, when the uncorrected proceedings did not contain the words but contained his statement that he had withdrawn them, the member raised the matter in the House the next day and contended that there was a distinction between 'withdrawal' and 'expunction', and stated that when he obeyed the Chair and withdrew the remarks, the same could not be expunged. The Chairman, *inter alia*, observed, "My right to expunge remarks is discretionary and is not confined only to those cases when an honourable member disobeys my direction. A remark may be withdrawn and yet it may be of such a character that it may attract my powers under rule 261,"<sup>283</sup>

When a member speaks without being called upon to speak, or despite being asked to resume his seat continues to speak, or speaks without the permission of the Chair, the Chair may direct that remarks of such a member may not form part of the record.<sup>284</sup> Likewise, if a member continues to interrupt the speech of another member or Minister, the Chair may direct that interruptions be not recorded.<sup>285</sup>

When a member defied the Chair and wanted to speak, the Chairman ordered that whatever the member said would be “off the record”. A point of order was raised that the Chairman had no such power to order that a part of the proceedings should not go on record. But the Chair ruled that he had this power under rule 259 (regarding Chairman’s power to preserve order and enforce decisions).<sup>286</sup>

On an occasion when several members rose at the same time to ask supplementaries and raise points of order and did not resume their seats in spite of the Chairman asking them to do so, he stood up and observed, “If an honourable member speaks when I am standing, my instructions to the Reporters are to completely black out what he says. This is a standing instruction.”<sup>287</sup> After a couple of days a member requested the Chairman to reconsider his ruling in view of the fact that the rules did not say that when Mr. Chairman stood up, if somebody said something, automatically it got expunged. The Chairman then clarified that he had said it for that day only and he would give special directions every time.<sup>288</sup>

The Chairman can order expunction on a subsequent day and not only while he is presiding.

A member withdrew objectionable remarks made by him while the Chairman was in the Chair. Subsequently, he directed the Vice-Chairman to expunge the remarks from the proceedings. The next day, the member raised the matter on the floor of the House contending, *inter alia*, that the Chairman could not order such expunction from his Chamber; he could do so only while he was in the Chair. The Chairman observed that the Chairman could exercise it and place was not the thing; it was not necessary that he should be sitting in the Chair in the House to direct expunction.<sup>289</sup>

Some derogatory references made against the Comptroller and Auditor-General of India during a short duration discussion on his report on 21 and 25 July 1989, were ordered to be expunged by the Chairman on the last day of the 151<sup>st</sup> Session (18 August 1989) on a representation made by a former member of the Rajya Sabha. Members were informed of expunctions through a paragraph in the Bulletin.<sup>290</sup>

Certain remarks made by a member in respect of the Lok Sabha Secretariat on 30 April 1992, which had gone unnoticed were expunged subsequently and the member concerned was informed accordingly.<sup>291</sup>

The decision of the person presiding about expunction of words or directing that nothing would go on record is final and no appeal lies to the Chairman.

Soon after Question Hour a member questioned the right of the Chair to say; ‘nothing will go into the proceedings’ with reference to an earlier direction given by one of the Vice-Chairmen, adding that it

could not be done so long as the rules were not violated and the Constitution was not disrespected. He objected to some of the proceedings being thus expunged by the Vice-Chairman. Responding to this the Chairman observed:

I must stand by the ruling given by the Vice-Chairman who was in the Chair. It is as good a ruling as given by me. If I were to begin revising those rulings, then the work will never be finished and there will be lot of trouble.<sup>292</sup>

On more than one occasion the matter of the Chair directing that “nothing would go on record” has been raised on the floor of the House. For instance, on 6 August 1980, there was a somewhat lengthy discussion on this issue. A member contended that under rule 260 the Secretary-General was to cause to be prepared full report of the proceedings. There was no specific rule that “The Chairman may direct that nothing shall be recorded.” The Deputy Chairman observed that under rule 266 (residuary power) the Chair had got the power to regulate proceedings of the House.<sup>293</sup>

Again on 27 August 1988, during Question Hour when the Chairman ruled that except the supplementaries nothing said in the House would go on record, members raised objection to the removal of expressions of members from the record. The Chairman observed:

This is a well-established practice. Otherwise you will need as many reporters as the number of members here... My ruling is very clear that nothing which is spoken will go on record. What is on record is not expunged.<sup>294</sup>

The Rules Committee also gave a thought to the issue. The Chairman (of the Rajya Sabha who is also the Chairman of the Committee) explained that the Chair was exercising this power under rule 259 and if the members so desired, a specific rule on the subject might be incorporated in the rules.<sup>295</sup>

#### *Indication in proceedings regarding expunctions*

The portions of the proceedings of the House so expunged are indicated by asterisks and an explanatory footnote is inserted in the proceedings as follows: “Expunged as ordered by the Chair.”<sup>296</sup> If the expunction is ordered on a subsequent day, the expunged portion is indicated only in the printed debates by an asterisk. If the Chair has directed that nothing would go on record in respect of a member’s speech, the proceeding bears a footnote “Not recorded.”

Expunction of words and remarks is ordered from the speeches of not only members but also from the speeches of Ministers.

On 16 July 1996 in the debate on the resolution seeking extension of President's Rule in Jammu & Kashmir, the Minister of Home Affairs, Shri Indrajit Gupta, made a comment on the conduct of the polling officers in the Lok Sabha elections which had just taken place in Jammu & Kashmir. The Home Minister's comment was strongly objected to by many members whereupon Vice-Chairman (Ms. Saroj Khaparde) ordered expunction of the Home Minister's remarks and the explicit references to that remark.

On 29 July 1998, the then Home Minister, Shri Lal K. Advani, made a comment in regard to certain actions of the Maharashtra Govt. in relation to a case which was *sub judice*. As per the guidelines to be followed by members while speaking in the House one of the self-imposed restrictions on the freedom of speech in Parliament is that discussions on matters pending adjudication before courts of law should be avoided on the floor of the House, so that courts function uninfluenced by anything said outside the ambit of trial in dealing with such matters. When some members drew the attention of the Deputy Chairman who was in the Chair to the Home Minister's comment on a matter which was *sub judice*, the Deputy Chairman expunged the objectionable remarks of the Home Minister.

### **Expunction and subsequent restoration**

On 5 August 1993, immediately after the Question Hour, Shri Yashwant Sinha, with the prior permission of Chairman, made a Zero Hour submission on the question of suspension by Russia of the Indo-Russian Cryogenic rocket engine deal, and in that, made certain references to the then Finance Minister, Dr. Manmohan Singh, which were expunged by the Deputy Chairman, Dr. (Smt.) Najma Heptulla, who was in the Chair. The Deputy Chairman at that time observed that the remarks were irrelevant. The next day, on 6 August 1993 when Shri Yashwant Sinha found that his remarks about the Finance Minister stood expunged in the "Uncorrected/Not for Publication" debate of 5 August 1993, he had, by a letter addressed to the Chairman, pleaded for restoration of his remarks since the remarks could not be considered unparliamentary. When Shri Yashwant Sinha's request made to the Chairman was referred to the Deputy Chairman, the Deputy Chairman, on reconsideration restored the expunged remarks.

### *Expunction from Committee proceedings*

If in the opinion of the Chairman of the Committee, a minute of dissent contains words, phrases, or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order them to be expunged from the minute of dissent.<sup>297</sup> The Chairman has also the power to order expunction in like circumstances or to review all decisions regarding expunction from minutes of dissent and his decision is final.<sup>298</sup>

**Admission of strangers to Rajya Sabha Galleries, etc.**

The admission of strangers during the sittings of the Rajya Sabha to those portions of the House which are not reserved for the exclusive use of members is regulated in accordance with the orders made by the Chairman,<sup>299</sup> when the House is sitting, the Chamber is reserved for the exclusive use of members and no strangers are permitted therein. If any stranger comes and sits in the House knowing that he is not qualified for membership thereof, he shall be liable to a penalty of five hundred rupees for each day he so sits, to be recovered as a debt to the Union.<sup>300</sup> The other portions of the House where strangers may be permitted to go under specified conditions are the Inner/Outer Lobbies, the Galleries and the Central Hall. The Chamber, the Lobby and the Galleries constitute the inner precincts of the House.

Any officer of the secretarial staff of the other House is entitled to admission to the Chamber during any sitting of the House.<sup>301</sup> In parliamentary vocabulary, therefore, all persons who are not either members or officers of the House are termed strangers.<sup>302</sup> Admission of strangers to the various galleries is regulated in accordance with the directions of the Chairman.

The Chairman may, whenever he thinks fit, order the withdrawal of strangers from any part of the House.<sup>303</sup> The following instructions in Hindi and English are written overleaf of Visitor's Card/Pass:

1. Admission is subject to accommodation being available.
2. This pass is liable to be cancelled without notice and without assigning any reason therefor.
3. The person (in whose name this pass has been issued) shall be responsible for its safe custody and proper use. This pass must be returned or get revalidated to the Centralised Pass Issue Cell (CPIC) Branch, Rajya Sabha after the period for which it is issued, is over.
4. After witnessing the proceedings of the House, the visitors should come out of the Parliament House Complex immediately after the time is over or security staff advice to do so, whichever is earlier.
5. In case visitors are found roaming in non-permitted areas, they shall be liable to be sent out of the Parliament House Complex immediately.
6. Visitors are required to maintain silence. Demonstration, applause, shouting and distribution of leaflets are prohibited. Movement of any kind is to be avoided as much as possible.

7. This pass should be shown on demand by security staff on duty.
8. Any visitor may be asked to withdraw at any time from the gallery without assigning any reason therefor, even though holding a visitor's card, which may otherwise be valid.
9. Visitors are not permitted to take any objectionable items (like sticks, umbrellas, handbags, attaché cases, books etc.) and electronic items (like mobile phones, cameras, CD, pen drive, radio, i-pod/i-pad, laptop etc.) inside the building. They must declare and deposit such articles at the Token Cabin.
10. No fire-arms is permitted inside the Parliament House Complex. In case of possession of firearms, the same should be left outside the Parliament House Complex.
11. Visitors carrying cash or valuable in their handbags should invariably ask for lockers.
12. Children below ten years of age are not allowed inside the Gallery.
13. Any infringement will render the persons concerned liable to action being taken against them.
14. Smoking is strictly prohibited in the Parliament House Complex.
15. Interaction or interview with media is not allowed.
16. Please co-operate with security staff on duty in maintaining discipline and decorum of the Parliament House Complex.
17. In case of any need, contact the nearest security personnel and extend co-operation to them.
18. Photocopy/scanning/tampering of the pass for any purpose is strictly prohibited.
19. This entry permit must be deposited with the Security Assistant on duty at the exit gate after completion of visit.
20. The loss of this pass should be reported immediately to CPIC, Rajya Sabha and Communication Control Room.

A member may go inside the Galleries but it is not desirable that he should remain in the Visitor's Gallery for any length of time.

On an occasion a member raised a point of order whether it was open to a member of the House to go to a Visitors' Gallery and watch the proceedings from there. The Deputy Chairman observed that although members might visit various Galleries it was not in order for a member to retain a seat in the Gallery to the exclusion of, or on behalf, a holder of a card for that Gallery.<sup>304</sup>

*Rajya Sabha Galleries*

The Visitors' Galleries of the Rajya Sabha Chamber are: Public Gallery, Distinguished Visitors' Gallery, Press Gallery and Gallery for members of the Lok Sabha. There is also an Official Gallery (situated on the right side of the Chairman's seat) and the Special Box (situated on the left side of the Chairman's seat).

The Public Gallery is generally for the use of the public. A member can apply for issue of Visitors' Cards only for persons who are personally known to him and are his personal friends or relations or in select cases for those who have been introduced to him by persons who are personally known to the members. Cards for admission to this Gallery are issued on applications made. The following paragraph is issued in this regard in the Bulletin:

Special attention of members is invited to the following certificate which is given by them while applying for visitors' cards for the Galleries of the Rajya Sabha:

"The above named visitor is my relation/friend known to me personally and I take full responsibility for him/her."

Members are requested kindly to ensure that the visitors for whom they apply for visitors' cards are known to them personally.

Members are also requested to ensure that the particulars required in the application forms are duly filled in. It will not be possible to issue visitors' cards if all the particulars required therein have not been furnished.

Members are further requested that the application form for visitors' cards must be delivered in the Notice Office before 3.00 p.m. on the day previous to the date of the sitting of the House for which cards are applied.

Members are also requested not to make requests for the same day visitors' cards in view of the present security environment in the country.<sup>305</sup>

The Distinguished Visitors' Gallery is intended for eminent men, former Members of Parliament, Ministers in States, etc., foreign diplomats and Chairman's family members.

The Press Gallery is meant for accredited correspondents whom passes are issued by the Secretary-General in accordance with the general orders of the Chairman.

The Lok Sabha Gallery is meant for the exclusive use of the members of the Lok Sabha to enable them to watch the proceedings of the Rajya Sabha.

The Official Gallery is intended only for officers of the Government of India whose presence is required in connection with the business before the House.

The Special Box is reserved for the family and guests of the President, heads of foreign States and foreign Parliamentary Delegations, etc.

#### *Lobby*

The Rajya Sabha Lobby comprises the Inner Lobby (also called the Division Lobby) and the Outer Lobby. The Lobby is intended for the use of sitting and former Members of Parliament.

#### *Central Hall*

The Central Hall is primarily meant for use of Members of Parliament. Former Members of Parliament are admitted in the Central Hall on the basis of photo identity cards issued to them by the respective Secretariats. Certain press correspondents holding press passes are also admitted to the Central Hall on production of passes.

Central Hall passes are recommended by the Rajya Sabha Notice Office in favour of persons on the specific and written requests from members. The following categories of persons only are entitled to avail of Central Hall entry facility:

1. Sitting MLAs/MLCs;
2. Chief Ministers/Ministers in States;
3. Former Ministers in the States;
4. Spouse, son(s)/daughter(s) of sitting MPs.<sup>306</sup>

Requisite forms are available for the purpose in the Notice Office.

During the President's Address in the Central Hall, applications for entry to the Visitors' Galleries of the Central Hall are required to be made in the prescribed form. The seating capacity in the galleries of the Central Hall for the guests of members of the Rajya Sabha is very limited. Cards are therefore, issued on "first-come-first served" basis.<sup>307</sup>

#### **Suspension of rules**

A member may, with the consent of the Chairman, move that any rule may be suspended in its application to a motion related to the business

listed before the Council for that day and if the motion is carried the rule in question is suspended for the time being. If a provision already exists for suspension of a rule under a particular Chapter of rules, the general rule relating to suspension of rules does not apply.<sup>308</sup> As observed by the Chairman on an occasion, ‘‘It is with my consent that Question Hour can be suspended. I am not giving consent...without my consent, no rule can be suspended.’’<sup>309</sup>

Although it is in the discretion of the Chairman to give his consent to the moving of a motion for suspension of a rule, the discretion is exercised with utmost care and caution and after taking all factors into consideration. Every request for suspension is judged on its merits before the Chairman gives his consent. On occasions the Chairman has refused consent for moving of a motion, especially in relation to Question Hour.<sup>310</sup> On an occasion a general motion was moved for suspension of Question Hour, Calling Attention and Private Members’ Business during a session.<sup>311</sup>

### **Residuary powers of the Chairman**

The Chairman has the power to deal with all matters which are not specifically or adequately provided for in the rules. All matters not specifically provided for in the rules and all questions relating to the detailed working of the rules are regulated in such manner as the Chairman may, from time to time, direct.<sup>312</sup> In exercise of these powers the Chairman has issued directions from time to time in respect of such matters as questions, committees, special mentions, removal of Bills from Register, etc. Under the inherent powers the Chairman may order expunction of words from the proceedings of the House on grounds not provided for in the rule relating to expunction.

Maiden speeches delivered by members are not governed by any specific rule of the Rules of Procedure and Conduct of Business. Therefore, there was no time-limit for such maiden speeches. However on 25 August 2010 the Chairman issued a direction prescribing that a maiden speech of a member should not impinge on time management for the scheduled business of the day and should not exceed 15-20 minutes.<sup>313</sup>

### **NOTES AND REFERENCES**

1. Bn. (II), 6.2.1996 (No. 35512).
2. R. 223(1).
3. R. 223(2).
4. Bn. (II) 12.11.2015 (No. 54605).
5. 7 Rpt., COR (presented on 14.2.1995).
6. Bn. (I), 30.5.1995.

7. Sectional Manual of Office Procedure (SMOP), Council Branch (Table Office, Notice Office & Lobby Office) Rajya Sabha Secretariat, September 2010, p. 67.
8. R. 39.
9. R. 60(2).
10. R. 154.
11. Rs. 160(2) *and* 232.
12. R. 62(3).
13. R. 95(1).
14. Bn. (II), 6.2.1996 (No. 35513); R 180C(1).
15. Rs. 113 *and* 123.
16. Bn. (II), 19.2.1996 (No. 35527); R 180(1).
17. 13th Rpt. of Committee on Rules presented on 25 November 2014 and adopted by the House on 26 November 2014.
18. Rs. 180A-180E.
19. R. 224(1).
20. R. 3(1).
21. R. 7(1).
22. R. 29(1).
23. Rs. 95(2) *and* 160(3).
24. R. 224(2).
25. R. 227.
26. R. 225.
27. 4 Rpt., COP, para. 3.
28. R. 226.
29. Art. 3.
30. Art. 274(1).
31. Art. 117(3).
32. R. 234.
33. R.S. Deb., 24.12.1980, c. 256-66 *and* 18.3.1981, c. 283-90.
34. Rs. 235-40.
35. R. 238(i).
36. Art. 105(1).
37. R. 47(2)(xix).
38. R. 169(viii).
39. R. 157(v).
40. R.S. Deb., 25.11.1986, c. 183-84.
41. *Ibid.*, 7.12.1970, c. 98-116.
42. *Ibid.*, 22.7.2003, pp. 330-43.
43. *Ibid.*, 27.2.2006, p. 240 (*The ruling was given in Hindi*).
44. *Ibid.*, 12.12.1994, c. 324-26.
45. *Ibid.*, 8.5.1986, c. 281.
46. Page Committee Report, paras. 26-28 *and* 30.
47. R.S. Deb., 18.11.1964, c. 330-31; *and* 15.3.1988, c. 218-22.
48. *Ibid.*, 15.3.1988, c. 221 *and* 226.
49. Art. 88.
50. R.S. Deb., 19.2.2014, pp. 333-35.
51. Art. 105(1) *and* (2).
52. R. 238(v).
53. Bn. (I), 4.12.1967.
54. *Ibid.*, 22.11.1967.
55. *Ibid.*, 30.3.1977.
56. *Ibid.*, 13.3.1969, 5.3.1970 *and* 27.4.1981.
57. *Ibid.*, 12.5.1986.
58. *Ibid.*, 24.11.1970, 24.2.1970, 16.2.1968, 20.11.1967 *and* 20.3.1967.
59. *Ibid.*, 11.5.1968.

60. Bn. (I), 30.3.1973.
61. *Ibid.*, 21.12.1964.
62. *Ibid.*, 8.6.1967.
63. *Ibid.*, 22.7.1969.
64. R.S. Deb., 7.12.1987, c. 309.
65. R. 238A.
66. *Ibid.*, *Proviso*.
67. R.S. Deb., 30.5.1967, c.1410-11; 5.6.1967, c.2208-16; 6.6.1967, c. 2439-43 and 19.6.1967, c. 4656-58.
68. *Digest*, pp. 604-05.
69. For procedure regarding Personal Explanation, see *infra*.
70. R.S. Deb., 8.3.1978, c. 122.
71. R. 241, and R.S. Deb., 3.4.1989, c. 127-28.
72. R.S. Deb., 22.11.1962, c. 2161-62.
73. *Ibid.*, 11.3.1969, c. 3151.
74. *Ibid.*, 30.3.1988, c. 66-67.
75. Abraham & Hawtrey, *A Parliamentary Dictionary*, p. 144.
76. R.S. Deb., 31.8.1973, c. 84.
77. *Ibid.*, 31.7.1980, c. 160.
78. *An Encyclopaedia of Parliament*, p. 560.
79. R.S. Deb., 25.11.1955, c. 569; see also R.S. Deb., 29.2.1956, c. 1078.
80. *Ibid.*, 1.8.1991, c. 270-74.
81. *Ibid.*, 3.12.1985, c. 190-91.
82. *Ibid.*, 8.8.1977, c. 8-9.
83. Bn. (I), 4.12.1978.
84. R.S. Deb., 23.5.1990, c. 187-97.
85. Bn. (I), 21.2.1986.
86. *Ibid.*, 16.12.1969.
87. *Ibid.*, 4.8.1983.
88. *Ibid.*, 15.12.1977 and 16.12.1977.
89. R.S. Deb., 20.11.1980, c. 223.
90. *Ibid.*, 21.11.1962, c. 1944.
91. *Ibid.*, 19.8.1963, c. 644-45.
92. Bn. (I), 29.8.1973 (by Shri L.N. Mishra); 18.2.1975 (by Shri Chandrajit Yadav); 14.8.1978 (by Shri Biju Patnaik); 16.8.1978 (by Shri George Fernandes); 27.3.1979 (by Shri Ravindra Verma); 13.12.1985 (by Shri Natwar Singh); 5.8.1980 (by Shri C.M. Stephen); 17.11.1980 (by Shri C.P.N. Singh); 30.8.1990 (by Shrimati Maneka Gandhi); 28.8.1991 (by Shri Paban Singh Ghatowar).
93. R.S. Deb., 30.8.1990, c. 152-57.
94. R. 242(1).
95. R. 242(2).
96. R. 242(3).
97. *Ibid.*, *Proviso*.
98. R. 244(1).
99. R. 244(2).
100. Abraham & Hawtrey, *A Parliamentary Dictionary*, p. 58.
101. R.S. Deb., 24.7.1952, c. 1948.
102. *Ibid.*, 16.3.1954, c. 2877-78.
103. *Ibid.*, 31.8.1956, c. 2969-70.
104. *Ibid.*, 8.12.1967, c. 3222.
105. R. 245(1).
106. R. 245(2).
107. R.S. Deb., 4.5.1954, c. 5068-70.
108. R. 246.
109. R. 247.

110. R.S. Deb., 22.9.1954, c. 2989-91.
111. R. 256(2).
112. R. 248.
113. R. 249.
114. *Ibid.*, 1<sup>st</sup> Proviso.
115. R.S. Deb., 24.9.1954, c. 3282-87.
116. *Ibid.*, 14.3.1972, c. 98-100 (also f.n. on c. 100); and 14.4.1972, c. 84.
117. *Ibid.*, 12.11.1986, c. 163-65.
118. *Ibid.*, 20.9.1963, c. 4972-97.
119. *Ibid.*, 21.3.1967, c. 266-71.
120. R. 249, 2<sup>nd</sup> Proviso.
121. R.S. Deb., 9.3.1984, c. 239-41.
122. *Ibid.*, 19.7.1978, c. 239-302.
123. Bn. (I), 27.7.1978.
124. R.S. Deb., 31.7.1978, c. 106-34; 1.8.1978, c. 176-231 and 2.8.1978, c. 159-92.
125. *Ibid.*, 3.8.1978, c. 216.
126. *Ibid.*, 3.4.1989, c. 20, 53 and 4.4.1989, c. 38-39.
127. *Ibid.*, 13.8.1974, c. 5-8.
128. *Ibid.*, 27.8.1974, c. 21-34 and 232-54.
129. Bn. (I), 11.9.1974.
130. R.S. Deb., 4.12.1974, c. 206-36.
131. *Ibid.*, 5.12.1974, c. 174-75 and 6.12.1974, c. 158-59.
132. *Ibid.*, 9.12.1974, c. 125-27.
133. *Ibid.*, 10.12.1974, c. 139-143 and 1.12.1974, c. 122-23.
134. *Ibid.*, 20.3.1987, c. 259-66.
135. *Ibid.*, 8.1.1976, c. 6.
136. *Ibid.*, 16.3.1981, c. 168-72.
137. *Ibid.*, 19.12.1953, c. 2894.
138. *Ibid.*, 4.4.1989, c. 52-53.
139. *Ibid.*, 8.3.1978, c. 119-34
140. *Ibid.*, 21.4.1953, c. 3460.
141. *Ibid.*, 25.2.1966, c. 1320-23.
142. *Ibid.*, 18.12.1970, c. 108-14.
143. See Chapter 4.
144. R.S. Deb., 7.5.1959, c. 2205-06.
145. *Ibid.*, 23.1.1976, c. 151-52.
146. *Ibid.*, 9.3.1984, c. 289.
147. *Ibid.*, 15.5.1956, c. 2170-85.
148. *Ibid.*, 11.9.1956, c. 4078-82.
149. *Ibid.*, 22.4.1974, c. 92.
150. R. 250.
151. R.S. Deb., 7.5.1959, c. 2196-2201.
152. Bn. (II), 5.2.1996 (No. 35502).
153. Kaul & Shakdher, p. 1033.
154. *Ibid.*, p. 1034.
155. Supplementary LoB, 20.3.1995.
156. Bn. (II), 8.8.1960 and 10.8.1960.
157. R.S. Deb., 30.8.1960, c. 2720.
158. *Ibid.*, 24.7.1980, c. 84; Bn. (I) of that date and F. No. 35/9/80-L.
159. *Ibid.*, 22.11.1962, c. 2161-62.
160. *Ibid.*, 21.3.1967, c. 371-73.
161. *Ibid.*, 6.4.1967, c. 2560-79; see also R.S. Deb., 26.7.1996.
162. *Ibid.*, 31.3.1969, c. 6388.
163. C.S. Deb., 27.4.1953, c. 4106.
164. *Ibid.*, 25.11.1952, c. 192-93.

165. R.S. Deb., 19.9.1955, c. 3499-3500.
166. Bn. (I), 26.2.1992.
167. Bn. (II), 9.4.1992 (No. 32975).
168. *Ibid.*, 30.7.1992.
169. Bn. (I), 26.8.1994.
170. *Ibid.*, 8.3.1996.
171. Bn. (II), 11.12.2002.
172. *Ibid.*, 19.12.2012.
173. R.S. Deb., 31.3.1967, c. 1663-79.
174. *Ibid.*, 22.11.1962, c. 2161-62; *see also* R.S. Deb., 22.2.1966, c. 933-34.
175. F. No. RS. 4/2005-T and R.S. Deb. 27.7.2005, pp. 193-97.
176. F. No. RS. 4/2009-T and R.S. Deb. 9.12.2009, pp. 259-263.
177. F. No. RS. 4/2013-T.
178. R.S. Deb., 28.11.1958, c. 600-02.
179. *Ibid.*, 28.2.1963, c. 1176, 1216-18.
180. *Ibid.*, 22.2.1965, c. 492-95, 604-09; 26.2.1965, c. 1337-38; and 2.3.1965, c. 1496-97.
181. *Ibid.*, 26.2.1991, c. 182.
182. R. 251.
183. R.S. Deb., 18.6.1980, c. 210.
184. *Ibid.*, 24.2.1987, c. 228.
185. *Ibid.*, 22.2.1966, c. 846.
186. *Ibid.*, 31.7.1991, c. 372-73; 1.8.1991, c. 256-96, c. 344-51; 2.8.1991, c. 290-318; 6.8.1991, c. 173-84; 7.8.1991, c. 274-84; 6.9.1991, c. 353-55; 9.9.1991, c. 252-84; 26.11.2007, pp. 226-30; 29.11.2007, pp. 246-47; 22.10.2008, pp. 213; 23.10.2008, pp. 224-32; 31.7.2009, pp. 208-210; 6.8.2009, pp. 248-260; 4.12.2009, pp. 234-65; 7.12.2009, pp. 224-33; 24.2.2010, pp. 138-39; 25.2.2010, pp. 285-89; 4.3.2010, pp. 249-51; 28.4.2010, pp. 307-13; 29.4.2010, pp. 332; 3.5.2010, pp. 335-39; 6.5.2010, pp. 309-17; 15.4.2010, pp. 198-259; 19.4.2010, pp. 258-78; 4.8.2010, pp. 346-49; 6.8.2010, pp. 267-93; 26.8.2010, pp. 223-27; 31.8.2010, pp. 301-05; 21.12.2011, pp. 329-34 and 27.12.2011, pp. 3-23.
187. *Ibid.*, 27.11.1991, c. 339-48; and 29.11.1991, c. 153-71, 243-47.
188. *Ibid.*, 3.11.1988, c. 289-378 and 4.11.1988, c. 328-40.
189. *Ibid.*, 27.11.1991, c. 339-48; 24.2.2010, pp. 138-39; 25.2.2010, pp. 285-89; 4.3.2010, pp. 249-51; 28.4.2010, pp. 307-13; 29.4.2010, pp. 332; 3.5.2010, pp. 335-39 and 6.5.2010, pp. 309-317.
190. *Ibid.*, 16.8.1993, c. 272-73.
191. *Ibid.*, 28.4.1987, c. 184.
192. *Ibid.*, 26.2.1992.
193. *Ibid.*, 27.2.1992.
194. *Ibid.*, 28.2.1992, c. 247-71.
195. *Ibid.*, 3.3.1992, c. 259-64.
196. Bn. (I), 27.8.1993.
197. R.S. Deb., 4.8.1993, c. 333-34; and 18.8.1993, c. 417-23.
198. *Ibid.*, 26.11.1985, c. 240-41; and 10.12.1985, c. 179-333.
199. Bn. (I), 28.4.1989.
200. *Ibid.*, 24.7.1991, 25.7.1991 and 26.7.1991.
201. R.S. Deb., 30.7.1985, c. 249.
202. Bn. (II), 8.7.1991 (No. 32369).
203. BAC mts., 1.8.1991; Bn. (II), 2.8.1991.
204. R.S. Deb., 1.8.1991, c. 357.
205. *Ibid.*, 4.12.1967, c. 2347; 13.12.1967, c. 3909.; 17.8.2011, pp. 1-17 and 278-317; and 27.8.2011, pp. 8-134.
206. Bn. (I), 28.5.1998, 26.2.2001, 7.12.2005, 11.12.2008, 17.8.2011 and 27.8.2011.
207. *Ibid.*, 8.8.2001, 9.8.2001, 18.12.2001, 19.12.2001, 31.7.2003, 4.8.2005, 8.8.2005, 27.2.2006 and 11.3.2006.

208. Bn. (I), 21.1.1985.  
209. *Ibid.*, 9.7.1992.  
210. *Ibid.*, 13.8.1985 and 14.8.1985.  
211. *Ibid.*, 20.8.1985.  
212. *Ibid.*, 18.12.1992 and 21.12.1985.  
213. *Ibid.*, 26.2.2013 and 15.3.2013.  
214. R.S. Deb., 18.3.1980, c. 150-60.  
215. Bn. (I), 16.2.2006, 3.3.2008, 13.2.2009 and 26.2.2013.  
216. Bn. (II), 28.9.2004.  
217. See Arts. 61(4), 67(b), 90(c), 94(c) 124(4), 148(1), 217(1)(b), 249(1), 312(1), 352(6) and 368, under which special majority votes are required for deciding matters mentioned therein.  
218. Art. 100(1).  
219. *An Encyclopaedia of Parliament*, p. 212.  
220. R. 252(1).  
221. R. 252(2).  
222. R. 252(3).  
223. R.S. Deb., 28.7.1988, c. 299-300.  
224. R. 252(4)(a).  
225. R. 252(4)(b).  
226. R. 252(4)(c).  
227. Abraham & Hawtrey, *A Parliamentary Dictionary*, p. 166.  
228. Bn. (I), 24.3.1995.  
229. R.S. Deb., 30.1.1980, c. 347-48.  
230. *Ibid.*, 13.10.1989, c. 290-94.  
231. Bn. (II), 22.5.1996 (No. 35674).  
232. R.S. Deb., 7.10.1982, c. 220-22.  
233. For detailed functioning of the system, see the brochure on the subject brought out by the Rajya Sabha Secretariat on 2 December 1994.  
234. R. 253(3).  
235. R. 253(4).  
236. R. 253(5).  
237. R.S. Deb., 15.12.1961, c. 2501-27.  
238. *Ibid.*, 13.10.1989, c. 301.  
239. R. 254(1).  
240. R. 254(2).  
241. R. 254(3).  
242. R. 254(4).  
243. R. 254(5).  
244. R. 254(6).  
245. R.S. Deb., 17.9.1981, c. 612.  
246. *Ibid.*, 13.10.1989, c. 178-79.  
247. Art. 100(1).  
248. R.S. Deb., 5.8.1991, c. 180-82.  
249. R. 77.  
250. Rs. 207(2), 212D(2), 212K(2), 212S(2).  
251. Bn. (I) and Bn. (II), 7.12.2012, 17.12.2012, 19.12.2012 and 20.12.2012.  
252. *An Encyclopaedia of Parliament*, p. 565.  
253. R.S. Deb., 27.2.1982, c. 3-11 and 22.8.1990, c. 228.  
254. Rs. 236 and 243  
255. *Handbook for Members*, p. 65.  
256. R.S. Deb., 1.3.1979, c. 259-61; and 30.5.1990, c. 268-77.  
257. *Ibid.*, 2.5.1963, c. 1828.  
258. *Ibid.*, 25.1.1980, c. 52-56, see also R.S. Deb., 15.12.1980, c. 207-15.  
259. *Ibid.*, 23.12.1980, c. 49-78.

260. R.S. Deb., 18.12.2000, pp. 18-19.
261. *Ibid.*, 8.9.1961, c. 3911-16.
262. *Ibid.*, 14.3.1985, c. 265-69.
263. *Ibid.*, 21.8.1984, c. 196; *see also* R.S. Deb., 1.3.1979, c. 259-61.
264. *Ibid.*, 15.11.1971, c. 223-41.
265. *Ibid.*, 21.3.1985, c. 154.
266. *Ibid.*, 5.12.1967, c. 2459; 13.2.1968, c. 61; 19.1.1976, c. 21; 1.3.1978, c. 17; 4.5.1984, c. 16-17, 193-94 and 5.9.1990, c. 11.
267. *Ibid.*, 9.3.1979, c. 226-27.
268. Hansard, 23.3.1964, c. 172.
269. L.S.R. 376(5).
270. *Ibid.*, 376(6).
271. Kaul & Shakdher, pp. 980-84.
272. Hansard, 26.3.1952, c. 786.
273. R. 260
274. Handbook for Members, pp. 82-83.
275. R.S. Deb., 25.11.1966, c. 2964.
276. Bn. (II), 22.5.1996 (No. 35680).
277. R. 85(5).
278. R. 89.
279. R. 261.
280. R.S. Deb., 22.8.1961, c. 1242-43.
281. *Ibid.*, 21.11.1962, c. 1944.
282. *Ibid.*, 27.3.1985, c. 364, 405.
283. *Ibid.*, 11.6.1971, c. 141-45.
284. *Ibid.*, 8.12.1971, c. 3 and 15.4.1987, c. 210-11.
285. *Ibid.*, 13.11.1987, c. 207-08.
286. *Ibid.*, 14.5.1974, c. 135-40.
287. *Ibid.*, 23.7.1980, c. 14-16.
288. *Ibid.*, 25.7.1980, c. 119-20.
289. *Ibid.*, 11.6.1971, c. 141-45.
290. Bn. (II), 18.8.1989.
291. F. No. 41/1/92-L.
292. R.S. Deb., 1.7.1980, c. 125-26.
293. *Ibid.*, 6.8.1980, c. 275-88.
294. *Ibid.*, 27.4.1988, c. 10-12.
295. 1 Rpt. COR, p. 9.
296. R. 262.
297. R. 90(7)(i).
298. R. 90(7)(ii).
299. R. 264.
300. Art. 104.
301. R. 263.
302. Abraham & Hawtrey, *A Parliamentary Dictionary*, p. 208.
303. R. 265.
304. R.S. Deb., 27.4.1955, c. 6279 and 6300.
305. Bn. (II), 9.2.1995.
306. *Ibid.*, 9.2.1955.
307. *Ibid.*, 7.2.1995 (No. 34929).
308. R. 267.
309. R.S. Deb., 22.5.1990, c. 1-2.
310. See Chapter 17.
311. *Ibid.*
312. R. 266.
313. Bn. (II), 25.8.2010.

## CHAPTER–27

### **Servicing Rajya Sabha**

#### **Rajya Sabha Secretariat**

Prior to the Independence on 15 August 1947, there were two Houses of the Central Legislature, viz., the Legislative Assembly and the Council of State. From 15 August 1947, these two Houses were replaced by a single House, that is, the Constituent Assembly of India (Legislative). On the commencement of the Constitution of India on 26 January 1950, the Constituent Assembly became the Provisional Parliament and began to exercise all the powers and perform all the duties conferred by the Constitution on the two Houses of Parliament and continued to do so until the two Houses were duly constituted after the first general elections held in 1952. The Provisional Parliament was succeeded by the two Houses, namely, the House of the People and the Council of States and a continuity was thus maintained in the line of succession of the House or Houses of the Central Legislature since the establishment of the Central Legislative Assembly under the Government of India Act, 1919.

Parliament being the legislative organ of the State, it is essential that it should have a separate Secretariat of its own, independent of the Executive Government and that the Secretariat of each of the Houses should function directly under the guidance and administrative control of its Presiding Officer.<sup>1</sup> This idea dates back to the period when late Shri Vithalbhai Patel was the President of the Central Legislative Assembly and who safeguarded the independence of the legislature secretariat from the interference of the Executive Government of the day. In the Constituent Assembly, Dr. B.R. Ambedkar stated that Article 98 was introduced in the Constitution in the immediate context of the resolution by the Conference of the Speakers which among others demanded a separate secretarial staff for the legislature. Therefore, Article 98 became part of the Constitution.<sup>2</sup> It states:

- (1) Each House of Parliament shall have a separate secretarial staff: Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.
- (2) Parliament may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

- 
- (3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Accordingly, with the commencement of the Constitution and setting up of the Council of States, a separate and independent Secretariat, designated as “Council of States Secretariat”, came into existence in May 1952. The name of the Secretariat was changed to “Rajya Sabha Secretariat” in 1954.<sup>3</sup> Till November 1973, the Secretariat was headed by the Secretary. In that month the post was redesignated as the Secretary-General, by an announcement made in the House by the Chairman.<sup>4</sup>

### **Recruitment and Conditions of Service Rules**

The special provisions in the Constitution in respect of the secretarial staff of the two Houses of Parliament obviously are made not only to safeguard the independence of Parliament and the Presiding Officers of its Houses but also to ensure that the persons of calibre, intellect and appropriate educational background are recruited to carry out the specialised nature of work required to be handled by these Secretariats. This objective is achieved by the provisions contained in clause (3) of article 98 of the Constitution which enables the Presiding Officers to have a say in the matter of framing of rules for recruitment and conditions of service of the persons to be appointed in the respective Secretariats. Upto March 1957, when it was at its formative stage, the Rajya Sabha Secretariat had no rules of its own governing the recruitment and other conditions of service of its employees. They continued to be governed by the Legislative Assembly Department (Conditions of Service) Rules, 1929, as amended from time to time. The Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, were framed and promulgated with effect from 15 March 1957, by the President of India, in consultation with the Chairman, Rajya Sabha, under article 98(3) of the Constitution.

The same considerations have actuated the Government of India and the Union Public Service Commission to agree that there is no need to consult the Commission in regard to matters relating to the officers of the Secretariats of Parliament and a provision to this effect is accordingly made in the Union Public Service Commission (Exemption from Consultation) Regulations, 1958. The Commission is, therefore, not consulted in the matter

of recruitment of officers and the two Secretariats directly recruit them under the orders of their respective Presiding Officers whenever necessity for such a recruitment arises.<sup>5</sup> The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959,<sup>6</sup> does not apply to vacancies in any employment connected with the staff of Parliament, nor does the Administrative Tribunals Act, 1985, is applicable to any person appointed to the secretarial staff of either House of Parliament.<sup>7</sup> The Secretariat thus makes its own recruitment and functions as an independent entity under the ultimate guidance and control of the Chairman.

There has been some discussion in the Houses in the past through a private member's resolution suggesting that as visualised in clause (3) of article 98, Parliament should enact legislation for regulating the recruitment and the conditions of service of persons appointed to the secretarial staff of either House of Parliament. The Government's stand in the matter has been that where the Constitution provides for two alternatives, namely, law of Parliament and rules by the President it does not necessarily mean that one alternative is superior to the other. The Government has also held the view that the present recruitment rules framed by the President, in consultation with the Chairman of the Rajya Sabha, as provided for under clause (3), have been working satisfactorily and there is no need to take recourse to clause (2). The resolution was, however, withdrawn by leave of the House.<sup>8</sup>

A private member's Bill, namely, the Rajya Sabha Secretariat (Recruitment and Conditions of Service) Bill, 1968, had also been discussed in the Rajya Sabha. The Government's stand in this respect had been that a law of this nature was not necessary; at the same time the Government was not against any law as contemplated in the Constitution, but the initiative for that and the necessity for that should come from and be felt by the Presiding Officers of the two Houses. The Bill was withdrawn by leave of the House.<sup>9</sup>

According to the well-established convention, the orders issued by the Government to the Ministries and Departments of the Government of India do not automatically apply to the officers and staff of the Secretariat. Every order issued is examined in the Secretariat and if it is decided to make it applicable to the employees of the Secretariat, an adaptation order is issued for the purpose. This applies to orders of financial nature also.

In view of the special position assigned to the Secretariats of the two Houses of Parliament under the Constitution, the recommendations of the Second Central Pay Commission (1957-59) were not made automatically

applicable to the staff. However, the pay scales of the employees of the Rajya Sabha Secretariat were revised broadly on the basis of the scales recommended by the said Pay Commission under orders issued by the Chairman after consultation with the Ministry of Finance. The Third Central Pay Commission stated in its report that the employees of the Secretariats of Parliament were excluded from its purview in view of the provisions of article 98 of the Constitution. In view of this position, the Presiding Officers of the two Houses appointed a Committee of Parliament to report on the structure of pay, allowances, leave and pensionary benefits for the officers and staff of the Rajya Sabha and Lok Sabha Secretariats.<sup>10</sup>

Pursuant to the acceptance of the recommendations of the Committee by the Chairman, Rajya Sabha and the Speaker, Lok Sabha, the officers and staff of the two Secretariats were from 1 January 1973, allowed the same pay scales as recommended by the Pay Commission for corresponding posts in the Central Secretariat. The various posts in the Secretariats of Parliament were redesignated with effect from 1 December 1974 with the scales of pay as recommended for those posts by the Committee. Among the notable changes made in the context of the recommendations of the Committee were reorganisation of the Secretariat on functional basis whereby the Secretariat was divided into ten services and the nomenclatures of various posts were altered so as to indicate the nature of functions entrusted to them. Subsequently, some of the Services were reorganised with effect from 13 June 1980.

The Presiding Officers of both Houses appointed another Pay Committee in 1986, after the Fourth Pay Commission's report applicable to the Central Government employees was presented.<sup>11</sup> The composition of this Committee was also similar to that of the previous one and it was headed by the Chairman of the Estimates Committee with members drawn from both Houses and with the Minister of Finance as one of its members. Apart from recommending pay scales, etc. the Committee recommended that designations of various posts in the two Secretariats might be the same as in the Government of India. Accordingly, the designations and pay scales of posts were revised with effect from 1 January 1986.

In the context of the decisions of the Government of India on the recommendation of the Fifth Central Pay Commission, a Parliamentary Pay Committee was constituted in 1997.<sup>12</sup> The Committee could not complete the task of making their final recommendations owing to the dissolution of eleventh Lok Sabha. After the formation of Twelfth Lok Sabha, the Pay Committee was reconstituted in 1998.<sup>13</sup> The Committee concluded its deliberations in April 1999 and presented the First Report on the scales of

the pay to the Chairman, Rajya Sabha and Speaker, Lok Sabha on 26 April 1999. Consequent on the acceptance of the recommendation contained in the report, the pay scales of all categories of posts and designations of certain posts were revised with effect from 1 January 1996. The Parliamentary Pay Committee was again reconstituted in Thirteenth Lok Sabha to consider the unfinished items of work.<sup>14</sup> The Second Report of the Committee on Allowances, Amenities, Facilities, etc. and other issues in respect of employees of Rajya Sabha and Lok Sabha Secretariats was presented to the Chairman, Rajya Sabha and Speaker, Lok Sabha on 13 August 2001. The recommendations contained therein were accepted by the Chairman and Speaker and implemented in the Secretariat. Subsequent to the implementation of the recommendations of the Sixth Central Pay Commission, a Parliamentary Pay Committee was constituted in 2008. The Committee presented its report to the Chairman, Rajya Sabha and Speaker, Lok Sabha in February 2009. The recommendations contained in the report, as accepted by the Presiding Officers of both the Houses, were implemented. The pay scales of all categories of posts were revised with effect from 1 January 2006.

Under the Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1957, an order called the Rajya Sabha Secretariat (Methods of Recruitment and Qualifications for Appointment) Order, 1958, was issued and came into effect from 1 August 1958, wherein qualifications, etc. required for appointment to the various categories of posts and also the methods of recruitment for filling up those posts were prescribed. This Order was superseded by a subsequent Order of 1969 which was further superseded by the Order of 1 December 1974, which was amended from time to time.<sup>15</sup> The Rajya Sabha Secretariat (Methods of Recruitment and Qualifications for Appointment) Order, 1974 and its subsequent amendments were consolidated and updated by issuing the Rajya Sabha Secretariat (Methods of Recruitment and Qualifications for Appointment) Order, 2009 dated 25 August 2009, which superseded earlier Orders. This Order has since been amended from time to time. Under these rules the appointing authority and the disciplinary authority in respect of the employees of the Secretariat is the Chairman of the Rajya Sabha. There is, however, a proviso that the Chairman may delegate his powers in these matters to the Secretary-General or any other officer of the Secretariat in regard to posts other than Class I (now known as Group 'A'). In terms of this proviso the Chairman has delegated his powers in the matter of making appointments and dealing with disciplinary matters in regard to posts in Groups 'B' and 'C' to the Secretary-General. These rules authorise the Chairman to create posts up to the level of Joint Secretary on his own, and posts above the rank of Joint Secretary in consultation with the Ministry of Finance. The Chairman

is also authorised to make changes in the pay scales after consultation with the Ministry of Finance. The rule 10 of the Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1957 also provides that in respect of matters regulating the conditions of service of officers for which no provision or insufficient provision has been made in the rules, the officers will be governed by such rules as are applicable to the officers holding corresponding posts in the Central Secretariat. But here also the Chairman may adapt these rules with modifications, variations or exceptions after consulting the Ministry of Finance.

### **Recruitment process**

All appointments to Group 'A' posts in the Rajya Sabha Secretariat are made by the Chairman. A Joint Recruitment Cell under the administrative control of the Lok Sabha Secretariat was set up in 1974 to make recruitment to various posts in the Secretariats of Parliament. This Cell was manned by officers and staff drawn from both the Secretariats. It undertakes the entire work of advertising, screening of applications, conducting the written examinations as well as interviews and making the final selection of candidates. A Recruitment Cell for undertaking recruitment to various posts in the Rajya Sabha Secretariat was separately created in October 2008. The Cell makes recruitment to various services and posts in the Secretariat through conduct of competitive examinations and/or interviews. Till the establishment of Recruitment Cell in 2008, all recruitments to the Rajya Sabha Secretariat were made by the aforementioned Joint Recruitment Cell.

### **Reservation for SC/ST/OBC candidates**

The Government instructions in the matter of reservation for Scheduled Caste/Tribe/Other Backward Classes employees are followed in the Secretariat both in respect of direct recruitment and promotion. Special relaxation, wherever applicable is given in the matter of age, educational qualification and performance at the written test/interview with a view to ensuring adequate representation for these categories in various grades.

### **Broad organisational set-up**

The Secretariat is headed by the Secretary-General who holds the rank equivalent to that of the Cabinet Secretary to the Government of India. The Secretariat is presently organised on functional basis into ten services. Amongst each service there are a number of Sections which handle various matters to provide efficient service to the House. These are briefly described below:

**(1) *The Legislative, Financial, Executive and Administrative Service***

This Service deals with the work connected with the business of the House such as legislation, questions, preparation of lists of business, etc. The various Sections which come under this service are:

- (i) Legislative Section – This Section deals with all the work relating to the summoning and the prorogation of the House, its sittings and President's Address, processing of notices for calling attention, short duration discussion, resolutions, motions, special mentions and zero hour submission, if any etc. The Section also deals with the Committee on Rules and Committee of Privileges.
- (ii) Bill Office – This Section deals with all legislative work, *i.e.* Bills.
- (iii) Table Office – This Section has the main responsibility of preparation of lists of business, parliamentary bulletins, making arrangements for oath/affirmation, preparing obituary and other references, election of the President/Vice-President and the Deputy Chairman, matters pertaining to election of members to Rajya Sabha, etc.
- (iv) Lobby Office – This Section deals with attendance of members, applications for leave of absence to them and general upkeep of the Rajya Sabha Chamber.
- (v) Notice Office – This Section receives all notices and papers from members in connection with the business of the House, applications for visitors' passes, issue of car park lables.
- (vi) Questions Branch – This Branch deals with all matters relating to questions and half-an-hour discussions.
- (vii) Committee Sections – These Sections deal with various Standing Committees/Department-related Committees/Select Committees on Bills.
- (viii) Committee Coordination Section – Committee Coordination Section was created after bifurcation of Committee Section-II in October 2003 to act as the nodal Section for all the Committees. This Section mainly deals with the work such as, processing of notices of Motions received from the Ministers for election of members of Rajya Sabha to various Statutory Bodies; election/nomination of members to the Joint Parliamentary Committees; constitution of Standing Committees of Rajya Sabha and Department-related Parliamentary Standing Committees

including filling of casual vacancies on Committees on which members of Rajya Sabha are represented; Committee co-ordination, etc.

- (ix) Conference and Protocol Section – This Section looks after the protocol matters including parliamentary delegations, release of foreign exchange to members for study tour abroad, etc.
- (x) Members' Amenities Section – This Section looks after the amenities and facilities provided to members including the work of the House Committee.
- (xi) Members' Salaries and Allowances Branch – As the name indicates, this Branch deals with all matters relating to salaries, allowances to members and pension to ex-members, issue of identity-cum-railway pass to members, etc.
- (xii) IT Sections (Hardware and Software) – These Sections deal with the work relating to provision of computers to members and the computerisation of the Secretariat. They also assist the Committee on Provision of Computers to Members of Rajya Sabha.
- (xiii) Personnel Section, O & M Section, Establishment Sections (General and Accounts and Budget), General Administration Section, Stores Section, Distribution Branch, Sales and Archives Section, Finance Cell, RTI Cell and Training Cell lend administrative, financial, executive and other support to the Secretariat and members such as distribution of debates to members, organising orientation programme for newly elected members, training of the staff, procurement of stationery and souvenir items, sale of Rajya Sabha publications, implementation of provisions of the Right to Information Act, 2005, etc. O & M Section has the responsibility to bring more efficiency and transparency in the Secretariat through improvement of the organisational pattern and simplification of procedures, etc. The work such as compilation, circulation and implementation of Manual of Office Procedure regarding working of the Secretariat; compilation and review of Annual Action Plans; compilation of the Annual Report; inspections and analysis of Inspection Reports; assessment of workload, etc. are performed by the Section.

**(2) *Library, Reference, Research, Documentation and Information Service (LARRDIS)***

LARDIS deals with references made by the Hon'ble Chairman, Hon'ble Deputy Chairman and the Secretary-General on constitutional matters and

questions concerning parliamentary procedure; collection of information about the procedure followed in the State Legislatures in India and in the Legislatures of other countries; preparation of speeches, messages, articles, research notes, furnishing of information sought by various national and international bodies, management of the library of Rajya Sabha Secretariat, maintenance and circulation of periodicals, and to bring out various publications including the 'Who's Who of Rajya Sabha', containing the biographical sketches of Members, after every biennial election to Rajya Sabha. In view of the changing and varied nature of work, it was felt necessary to restructure this Service into various units keeping in mind its requirements and accordingly it was restructured in September 2008<sup>16</sup> into eight units: (i) General Research Unit (ii) Publications and Who's Who Unit (iii) Library and Reference Unit (iv) Media, Education and Audio-Visual Unit and (v) Four Research Units. With the restructuring of the LARRDIS, the erstwhile Research & Library Section and Press & Media Unit were merged with the aforesaid units.

**Media, Education and Audio-Visual Unit:** The Press and Media Unit was created on 17 November 2003 to act as the nodal section for liaising with media organisations, correspondents and journalists. The nomenclature of the unit was changed to Media, Education and Audio-Visual Unit as part of the restructuring of the LARRDI Service with effect from 19 September 2008. The functions of the Unit, *inter alia*, include accreditation of newspapers/news agencies to the Press Gallery of Rajya Sabha; issuance of annual, sessional and temporary passes for the Press Gallery; issuance of Parking Labels - annual and sessional to the media persons to facilitate their entry to the Parliament House Complex; liaising with Government publicity organisations and communication media, press correspondents, newspapers and other media bodies; organising of press conferences, publicity of activities of Rajya Sabha and its Secretariat through press releases/ communiqués; managing the Press Counter during session periods for the supply of parliamentary papers to press representatives and other miscellaneous work related to press and media. A Media Advisory Committee was constituted by the Hon'ble Chairman, Rajya Sabha on 18 March 2008. This Committee comprises of media persons holding annual Rajya Sabha Press Gallery passes. The primary function of the Committee is to render advice to the Rajya Sabha Secretariat regarding admission of various media organisations to the Press Gallery of Rajya Sabha to enable them to cover the proceedings of the House. This Unit provides the secretarial assistance to the Media Advisory Committee.

### (3) **Verbatim Reporting Service**

As mentioned in the preceding Chapter, the Secretary-General causes to be prepared a full report of the proceedings of the Rajya Sabha at each

of its sittings. The Reporting Service is manned by high-level and high-speed Reporters in English and Hindi who take down *verbatim* report of the proceedings of the House and of the Committees when they are taking evidence of witnesses.

This is one of the specialised services essential for the functioning of the House and is in existence since the inception of the Rajya Sabha in May 1952.

#### **(4) Private Secretaries and Stenographic Service**

Private Secretaries and Stenographers of various grades are grouped under this Service. They are attached to Chairmen of Parliamentary Committees and officers of the Secretariat. The Stenographers' Pool situated adjacent to the Chamber, caters to the stenographic and typing (English and Hindi) needs of members so far as their parliamentary work is concerned.

#### **(5) Simultaneous Interpretation Service**

This is yet another highly skilled and specialised service introduced in the Rajya Sabha in September 1964<sup>17</sup>, with the installation of equipment for simultaneous interpretation of speeches in the House. This Service is manned by trained Interpreters in Hindi, English and regional languages. The initial success in Hindi/English interpretation led to the introduction of facilities for simultaneous interpretation into Hindi and English of the speeches made in four Indian languages namely, Kannada, Malayalam, Tamil and Telugu.<sup>18</sup>

Live interpretation in Hindi and English was provided for the first time for a speech made by a member in Tamil on 4 March 1970, in the Rajya Sabha.<sup>19</sup> Gradually, the Simultaneous Interpretation Service in Hindi and English was extended to other Indian languages listed in the Eighth Schedule to the Constitution.

This enabled those members who could not adequately express themselves either in Hindi or in English to participate actively in the deliberations of the House. Thus, the objective contained in article 120 of the Constitution was greatly realised.

At present, in addition to providing interpretation of the entire proceedings of the Rajya Sabha from Hindi into English and *vice versa*, arrangements exist for simultaneous interpretation into English as well as Hindi of the speeches made in Assamese, Bengali, Gujarati, Kannada, Malayalam, Marathi, Odia, Punjabi, Tamil, Telugu and Urdu languages subject to the following conditions: (i) speeches made in the course of debates are

to be interpreted from the aforesaid languages into English and Hindi; (ii) interpretation from the languages into English and Hindi is not available during the period immediately before the Question Hour, when miscellaneous matters not entered in the list of business are raised, nor is it available for remarks, observations or interruptions in the midst of debates;<sup>20</sup> (iii) a member desirous of making a speech in any of these languages has to give at least an hour's notice to that effect to the officer at the Table stating the language in which he wishes to make a speech.<sup>21</sup>

On 5 September 1988, when a member started speaking in Tamil on "Tributes to Dr. S. Radhakrishnan" without giving prior notice, the Chairman addressing the member observed, "...the general practice is that when you are speaking in any language other than English and Hindi, you have to inform in advance that you are going to speak in such and such language, so that arrangements for simultaneous translation can be made. So, you may please speak in English now".<sup>22</sup>

At meetings held by the Chairman with leaders of parties/groups on 8 and 27 March 1979 regarding the use of languages other than English and Hindi during Question Hour, the following procedure to be adopted in the matter was agreed and the Chairman announced the same on 28 March 1979:

- (i) This facility may be availed of only by members in whose names the question appears in the list of questions for oral answers;
- (ii) Advance notice in this behalf is to be given in writing by the members concerned not later than 3.00 p.m. on the working day preceding the day on which the question is listed for oral answer;
- (iii) The facility is not available to members other than those in whose names the question stands listed in the list of questions for oral answers;
- (iv) In the printed debates (original version) only the English version of the supplementary questions asked in a language other than Hindi, Urdu and English will be incorporated as is already being done at present in respect of speeches delivered by members in a language other than Hindi, Urdu and English while participating in debates on Bills, resolutions, etc.<sup>23</sup>

Members are informed of this procedure at the commencement of every session through a paragraph in the Bulletin.<sup>24</sup>

The facility for listening to interpretation has also been provided in the Press Gallery and in the front rows of other visitors' galleries, viz., the Distinguished Visitors' Gallery, Lok Sabha Members' Gallery and Special Box.

The Committee rooms in Parliament House, Parliament House Annexe (Sansadiya Soudh) and Parliament Library Building (PLB) are also equipped with the simultaneous interpretation system.

#### **(6) Printing and Publications Service**

This Service is responsible for printing of parliamentary and sessional papers. Apart from debates and committee reports, it also prints all the regular as well as *ad hoc* publications brought out by the Secretariat from time to time. Major publications such as 'Who's Who' of Members of Rajya Sabha and 'Rajya Sabha at Work' are also printed by this Service.

Printing of sessional papers, e.g. summons, notifications, lists of business, lists of papers laid on the Table of the House, Bills, bulletins part-I and II, questions lists, synopses etc. is done in the Government of India Press, Minto Road, New Delhi.

Most of the publications are brought out in Hindi as well as in English. The debates of the Rajya Sabha are published in two versions; one, the floor version in which speeches delivered by members in Hindi and English are published accordingly. Speeches delivered in other languages are translated into English and included in the debates with a footnote indicating the language in which the original speech was delivered. If a member delivers a speech in an Indian language other than Hindi and requests in writing that Hindi translation of his speech should be incorporated into the printed debates (Original version), his request is acceded.<sup>25</sup> In the case of speeches in Urdu, the Urdu script is included immediately after the Devnagari script of the Urdu speech with a footnote 'Transliteration in Urdu script'. This new arrangement was made from February 2000 (189<sup>th</sup> Session).<sup>26</sup> Earlier, the practice was to include the Urdu speeches made in the House, in the floor version of the debates itself. Second, the Hindi version of the floor version is prepared by Editorial and Translation Service separately in which all speeches delivered in languages other than Hindi are translated into Hindi.

Each day's proceedings are compiled and printed separately and are numbered accordingly. A copy of the floor version or Hindi version of the debates is supplied free of cost to all members according to their choice; those who desire to have their copies bound are supplied with bound volumes on payment of the binding charges.

The copyright for the reproduction of any material from the debates vests in the Secretariat under the Copyright Act.<sup>27</sup> Requests for permission

to reproduce material from debates are received in the Secretariat from individuals, institutions, sitting members and former members as well. Permission is granted to sitting members/former members, as well as others on merit and subject to the stipulations that the party concerned is required to acknowledge the source of material, *i.e.* “reproduced from the Rajya Sabha debate dated..., with the permission of the Chairman, Rajya Sabha”, to supply two copies of the publication to the Secretariat for record and permission for such reproduction would afford no protection in any legal proceedings that might arise out of any reproduction of a material of a defamatory character.<sup>28</sup>

#### **(7) Editorial and Translation Service**

This Service consists of eleven Sections, namely, Editing (English) Section, Editing (Hindi) Section, Translation Section-I, Translation Section-II, Translation (OIH) Section, Translation (Committees) Section-I, Translation (Committees) Section-II, Synopsis Section, English Debates Section, Rajbhasha Prabhat and Digitization and Hindi Web Updation Cell.

**Editing (English) Section:** This Section primarily deals with the job of editing and preparation of the floor version of Rajya Sabha debates or ‘Official Reports’ of Rajya Sabha and also prepares appendices and indices to these debates. Lengthy Statements which are multifaceted for printing and contain complex tabular matter, which are laid on the Table of the House are taken out and published in the form of Appendix for each session. These are, in fact, supplements to the debates. The indices to English version of debates are being prepared online from 219<sup>th</sup> Session onwards with a view to facilitating reference and access to the official records of the business of the House and are printed session-wise. The index is divided into two parts, namely Subject-Index and Name Index. The Section also issues permission letters on behalf of the Secretary-General of the Rajya Sabha with regard to requests received from Hon’ble MPs/Ex-MPs/ Institutions/Individuals to use/reproduce material from the Official Debates of Rajya Sabha.

**Editing (Hindi) Section:** This Section primarily deals with the verbatim translation of Rajya Sabha debates in Hindi, preparation of master copies of the edited debates received from Editing (English) Section and also preparation of alphabetical lists (Hindi Version) of the members of the Rajya Sabha and the Council of Ministers respectively. Since August 2010, the Section has been assigned the responsibility of updating of Hindi Website regarding Hindi debates. All the CDs containing Hindi debates which are received from Printing Section are returned to Printing Section after uploading the matter on website by the Section itself.

**Translation Section-I:** This Section provides translation of parliamentary papers directly related with the proceedings of the Rajya Sabha such as papers laid on the table (PLOT), list of business (LoB), parliamentary bulletins part-I and part-II, private members' Bills, amendments to Bills, motions, resolutions, notifications, notices of calling attention, half-an-hour discussion, etc. This Section also provides Hindi version of various publications brought out by the Rajya Sabha Secretariat from time to time. A *Machine Assisted Translation Tool* called *MANTRA-Rajya Sabha* launched by the Chairman, Rajya Sabha in the month of August, 2007 is being used in the Section for translation/vetting of three parliamentary papers, namely, PLOT, LoB (except legislative businesses) and parliamentary bulletin part-I.

**Translation Section-II:** This Section has mainly been entrusted with the task of providing Hindi translation of the starred and unstarred questions lists, short notice questions, received from the Questions Branch. Items like half-an-hour discussions and the short notice questions are given top priority as soon as these are received and dealt with utmost care. Hindi manuscripts of lists of such questions are sent to Printing Section for final printing immediately.

**Translation (OIH) Section:** This Section has mainly been assigned the task of providing English version of the notices of questions received Originally in Hindi (OIH) from Questions Branch. This Section provides assistance to Translation Section-II in translation and vetting work of listed questions.

**Translation (Committees)** have two Sections which provide Hindi version of Committee Reports, Action Taken Reports (ATRs), Notices, Minutes of Meetings, Memoranda, Press Releases, Questionnaires, Tour Programmes, Letters, Formulae, Draft LoB Items, Notes, RTI queries and Publications pertaining to 11 Committees of Rajya Sabha. Besides, the Section also provides English version of various papers such as Letters, Petitions, Representations/ Memoranda, etc. received by the Parliamentary Committees in Hindi language.

**Synopsis Section:** This Section has been entrusted with the job of preparing Synopsis in CRC form (both in English and Hindi) of the day-to-day proceedings of the Rajya Sabha during session periods. The synopsis of debates is a gist of important suggestions and points made during the debates and the details are not included therein. The synopsis is printed on the day of the debate itself in English and Hindi and uploaded on Rajya Sabha website on daily basis during session periods.

**Rajbhasha Prabhat:** This Section was created on 18 September 2000 with a view to encourage the use of official language Hindi in the official

functioning of the Rajya Sabha Secretariat. The Section works throughout the year keeping in view the benchmarks, provisions and objectives related to the use of Hindi formulated by the Department of Official Language (Ministry of Home Affairs, Government of India) and efforts are made accordingly to implement the schemes, programmes and legal provisions. The Section inspects various Sections/Branches of the Secretariat regularly to ensure full compliance of Official Language Act and Rules. Official Language Implementation Committee under the chairmanship of the Secretary-General constantly monitors its implementation in the Secretariat and provides suitable advisory. The Section also organises “Hindi Pakhwara” every year and publishes a yearly magazine entitled ‘Nutan Pratibimb’. Apart from the above, this Section facilitates non-Hindi speaking officers/employees to learn Hindi through various courses organised by Rajbhasha Vibhag and it encourages English typing clerks to learn Hindi typing through various Hindi typing courses organised by Rajbhasha Vibhag of the Ministry of Home Affairs.

**Digitization and Hindi Web Updation Cell:** The primary function of this Cell is to digitize the edited debates of Rajya Sabha by creating suitable meta-data attached in their soft copies to enable search ability of the data and to upload the digitized debates on the Debates Portal of Rajya Sabha and also keep the Hindi website of Rajya Sabha updated. Close coordination is maintained with National Informatics Centre (NIC) for updating the Hindi website regularly.

#### **(8) Parliament Security Service**

The Parliament Security Service is responsible for looking after the security of the Parliament House Complex. Director (security), Rajya Sabha Secretariat exercises operational control over Parliament Security Service of the Rajya Sabha Secretariat and the administrative authority vests with the Rajya Sabha Secretariat. Joint Secretary (security) of the Lok Sabha Secretariat is the overall in-charge of the Parliament Security Services of the Rajya Sabha Secretariat and the Lok Sabha Secretariat, Delhi Police, Parliament Duty Group (PDG) and is responsible for the security of the entire Parliament House Complex. Parliament Security Service performs security duties for safeguarding the historical and prestigious Parliament House Complex, Hon’ble Members and its VVIPs.

The main responsibility of the Parliament Security Service is to provide and maintain Pro-active, Preventive and Protective Security Measures within the Parliament House Complex, for safeguarding Members of Parliament, visitors and employees. The whole approach revolves around the principles of Access Control based on proper identification, verification, authentication

and authorisation of human and material resources entering the Parliament House Complex with the help of modern security gadgets. Since the threat perception has been increasing over the years due to manifold growth of various terrorist organisations/outfits, refinement in their planning, intelligence, actions and surrogate warfare tactics employed by organisations sponsoring and nourishing terrorists. New security procedures have been introduced into the security management to counter the ever-changing *modus operandi* of terrorist outfits/individuals posing threat to the Parliament House Complex.

This avowed objective is achieved with the assistance of the Delhi Police (DP), Parliament Duty Group (PDG), National Disaster Response Force (NDRF), Intelligence Bureau (IB), Special Protection Group (SPG), National Security Guard (NSG), etc. The Parliament Security Service acts as the overall coordinating agency. The Parliament Security Service maintains proper liaison and effective coordination with these security agencies for ensuring fail-proof and user-friendly security.

The objectives of having security arrangements in the Parliament House Complex are to protect the VIPs including all Members of Parliament; guard the Chambers, the Lobbies, the Galleries and the Central Hall against any act of sabotage; guard the vital installations and places in the Parliament House Complex; maintain law and order in the inner and the outer precincts of the Parliament House Estate; ensure that no unauthorised person enters the Parliament House Complex, regulate the visitors to the various galleries; and regulate traffic in the Parliament House Estate.

Besides, normal security operational duties in Parliament House Complex, the Parliament Security Service staff also performs duties at important national functions such as the Republic Day Parade on Rajpath, Flag hoisting ceremony on the Independence Day at Red Fort, ‘At Home’ functions in Rashtrapati Bhavan, at the official residences of the Hon’ble Chairman, Rajya Sabha, the Hon’ble Prime Minister of India, the Hon’ble Speaker, Lok Sabha, the Deputy Chairman, Rajya Sabha and Cabinet Ministers and also at Hyderabad House.

The Parliament Security Service plays an important security operational activity during the Presidential and Vice-Presidential elections. It coordinates with the respective State Legislative Assemblies for the collection of the ballot boxes containing ballot papers from the airport to the Parliament House under armed escort of the local Police. The ballot boxes are kept in a designated strong room which is guarded round the clock by armed guards under supervision of the officers of the Parliament Security Service. This room is daily opened and sealed in the presence of the Returning

Officer/Assistant Returning Officer. After the completion of the counting and declaration of the results, the empty ballot boxes are duly returned to the Election Commission of India.

One of the important operational activities of the Parliament Security Service is the show round of the Parliament House Complex to the visitors coming from all over the country and different parts of the world to see the Parliament House during inter-session period. The Security Assistants of the Parliament Security Service are deputed to ensure that the visitors, foreign dignitaries and the delegations are escorted properly and given factual and detailed information on the history of the Parliament and the procedures and practices followed for conducting the proceedings of the Parliament. For the students, the show round is designed more or less on the pattern of an educational tour. Visitors are also given brief information about the statues, portraits and mural paintings installed in the corridors of the Parliament House.

In order to keep the area and passages within the Parliament House Estate free and open for Members of Parliament, the following activities are prohibited within the Parliament House Estate:

Holding of any public meeting; assembly of five or more persons; carrying of fire-arms, banners, placards, *lathis*, spears, swords, sticks and brickbats; distributing within the precincts of the Parliament House any literature, questionnaire, pamphlets, press notes, leaflets or any matter printed or otherwise without the prior permission of the Chairman, Rajya Sabha/Speaker, Lok Sabha in writing; shouting of slogans; making of speeches, etc.; processions or demonstrations; picketing or *dharna*; any other activities and conduct which may cause or tend to cause any obstruction or hindrance to Members of Parliament.

The precincts of the Parliament House cannot be used even by members for any demonstration, *dharna*, strikes, fasts or for the purpose of performing any religious ceremony. The carrying or display of arms and ammunitions in any part of the Parliament House Complex, except by those on security duty, is strictly prohibited.

The security arrangements in the Parliament House Estate comprising Parliament House Building, Parliament House Annexe, Parliament Library Building are subject to change from time to time under orders of the Chairman, Rajya Sabha and the Speaker, Lok Sabha.

In the aftermath of the terrorist attack on Parliament House on 13 December 2001, the security arrangements were beefed up in accordance with the decisions of the Joint Parliamentary Committee on Security.

All the access points in the Parliament House Complex were streamlined in order to regulate vehicular and pedestrian movement. With the introduction of the hi-tech security gadgets at the access control points, the checking of unauthorised entry has been reassessed and made more effective.

The Training Wing of the Parliament Security Service is entrusted with the responsibility of training the officers and staff of the Parliament Security at esteemed institutions. The officials are sent to various security agencies for specialised training programmes in order to enhance their professional skills. Mock security drills with respect to evacuation, rescue, etc. in accordance with periodic review of Disaster Management & Contingency Plans are carried out at regular intervals.

**Sanitation Wing** - The Sanitation Wing is entrusted with the responsibility to provide the optimum sanitation services in the area which comes under the jurisdiction of the Rajya Sabha Secretariat. The Sanitation Wing of the Parliament Security Service maintains a high standard of hygienic environment in the Rajya Sabha sector by cleaning and managing timely collection/disposal of waste generated in routine course. The Sanitation Wing deploys the sanitation staff on regular basis, in two shifts, in Parliament House, Parliament House Annexe and offices of the Rajya Sabha Secretariat at North Avenue. The sanitation work by the outsourced private company for the offices of the Rajya Sabha Secretariat at the Press Trust of India (PTI) Building is monitored by Parliament Security Service.

**(9) Drivers and Despatch Riders Service and**

**(10) Messenger Service**

These services consist of Staff Car Drivers, Despatch Riders, Messengers and Chamber Attendants. The Despatch Riders are mainly engaged in the quick and prompt delivery of parliamentary papers to members at their residences during the session time. The Chamber Attendants are posted in the Chamber/Lobbies for assisting and attending to the urgent needs of members such as transmission of communications and message, attending to calls of members, etc.

**Pay and Accounts Office**

There is a separate Accounts Office, viz., 'Pay and Accounts Office, Rajya Sabha' attached to the Secretariat whose function is to conduct internal audit, to authorise payments, maintain appropriation accounts, provident fund accounts and New Pension Scheme of the employees of the Secretariat. The Pay and Accounts Office is responsible for payment of Salary and TA/DA Bills of members, after necessary audit.

The Pay and Accounts Office is also responsible for processing of pension cases and issuing of Pension Payment Orders (PPOs) relating to the former Members of Parliament and the Officials of Rajya Sabha Secretariat but disbursement of pension is normally arranged through various Public Sector Banks as desired by the pensioners.

Pay and Accounts Office, Rajya Sabha has also been assigned the job of processing and finalising of pension cases of Vice-Presidents of India. The Vice-President's Pension Act, 1997 providing for the payment of pension and other facilities to the retired and retiring Vice-Presidents was assented to by the President on 28 May 1997.

The Vice-President's Pension (Amendment) Act, 2002, further provided that the spouse of a person who dies while holding the office of Vice-President or after ceasing to hold office as Vice-President either by the expiration of his term of office or by resignation of his office, shall be paid a family pension at the rate of fifty per cent of pension as is admissible to a retiring Vice-President, for the remainder of his/her life. The Act was assented to by the President on 23 May 2002.

### **Live telecast of Rajya Sabha proceedings**

Live telecast of the proceedings of the Rajya Sabha excluding Zero Hour and Special Mentions, through a Low Power Transmitter (LPT) has commenced from 7 December 1994, as per the decision of the Business Advisory Committee taken on the same day.<sup>29</sup> The General Purposes Committee considered the question of continuance of TV coverage of the proceedings of the House and agreed that the existing arrangement might continue.<sup>30</sup> Live telecast of the entire proceedings of the House, including the Zero Hour and Special Mentions, began from 21 February 1997 as per the decision taken in a meeting of the General Purposes Committee on 20 February 1999.<sup>31</sup> The telecast was done on Channel 9 and it was available within a range of about fifteen kilometres from the Parliament House. The proceedings of Question Hour of the Rajya Sabha were telecast live by Doordarshan on the National Network on alternate weeks.

With the launch of two exclusive satellite channels of *Doordarshan*, namely, DD-Rajya Sabha and DD-Lok Sabha on 14 December 2004 by late Shri Bhairon Singh Shekhawat, the then Chairman, Rajya Sabha and Shri Somnath Chatterjee, the then Speaker, Lok Sabha, respectively, the proceedings of both Houses were telecast live across the length and breadth of the country.

Another milestone in this direction was achieved when the webcast of the live proceedings of Rajya Sabha was inaugurated by the then Chairman,

Rajya Sabha, late Shri Bhairon Singh Shekhawat on 11 December 2003 as part of the celebrations organised to commemorate the 200th Session of Rajya Sabha. The webcast of the live proceedings of Lok Sabha also began on 11 December 2003.

### **Rajya Sabha Television (RSTV): An interface with people**

The Rajya Sabha Television (RSTV) is a 24x7 parliamentary television channel fully owned and operated by the Rajya Sabha. The channel is aimed at providing in-depth coverage and analysis of parliamentary affairs/matters especially the functioning of and developments related to Rajya Sabha. During sessions of Parliament, apart from telecasting live coverage of the proceedings of Rajya Sabha, the RSTV presents incisive analysis of the proceedings of the House as well as other day-to-day parliamentary events and developments. While focusing its attention on current national and international affairs, it also provides a platform for telecasting information and knowledge based programmes for its discernible viewers. Simultaneous webcast of the channel is available on the homepage of Rajya Sabha i.e. [www.rajyasabha.nic.in/](http://www.rajyasabha.nic.in/) (*Rajya Sabha TV*) i.e. [www.rstv.nic.in](http://www.rstv.nic.in) as well as You Tube. The Hon'ble Chairman, Rajya Sabha gave his approval to set up RSTV on 25 May 2010. The RSTV started its test transmission on 26 August 2011 and became a full-fledged 24x7 news and current affairs channel on 18 December 2011<sup>32</sup>.

The channel has endeavoured, for the first time in India, to offer deeper insights into the functioning of Parliamentary Committees to the general public. Moreover, it focuses special attention on the legislative Bills upcoming as well as the ones under consideration of the Parliament. The RSTV intends to cover several other aspects of the functioning of Parliament of India with special focus on Rajya Sabha for the benefit of its viewers as it evolves in the days to come.

Conscious of its role as a responsible and responsive public broadcaster, the RSTV has conceptualised its programmes and shows on the basis of a vibrant relationship between the Parliament and the people that exists in the largest democracy of the world. As a matter of fact, it seeks to act as a bridge between the elected and the electors. Simultaneously, it is also aimed at providing an objective perspective on national and international affairs to the people. On the one hand, it tries to touch upon almost all the aspects of political, economic, social and cultural life of the people and on the other it makes a sincere attempt at projecting the diversity and vibrancy of Indian society through its programmes and shows based on art and culture<sup>33</sup>.

### The Budget of Rajya Sabha

The Budget of the Rajya Sabha consists of two parts, the charged expenditure in respect of the Chairman and the Deputy Chairman and the voted expenditure in respect of members of the Rajya Sabha, Leader of Opposition and its secretariat, secretariat of the Leaders, Deputy Leaders or Chief Whips of recognised parties/groups, Rajya Sabha Secretariat, Training Unit, Rajya Sabha Television (RSTV) and Pay Accounts Office, Rajya Sabha. The Budget proposals are made by the Secretariat keeping in view the special needs of the parliamentary work and submitted to the Ministry of Finance for its concurrence. Wherever the Ministry objects to any of the proposals, the matter is sorted out by mutual discussions between the Secretariat and the Ministry. As in the case of other Ministries of the Government of India, separate demands for grants in respect of both the Houses are also laid before them. Parliament sanctions the expenditure through the Appropriation Act annually.

#### NOTES AND REFERENCES

1. 'Growth of the Secretariat', an article contributed by the Rajya Sabha Secretariat in *The Second Chamber*, S.S. Bhalerao (ed.), p. 408.
2. Constituent Assembly Debates, Volume IX (30 July to 18 September 1949) dated 30 July 1949.
3. R.S. Deb., 23.8.1954, c. 36-37.
4. *Ibid.*, 15.11.1973, c. 153-54.
5. 'Growth of the Secretariat', *op. cit.* pp. 408-09.
6. S. 3(1)(e).
7. S. 2(d).
8. Bn. (I), 6.5.1983.
9. R.S. Deb., 14.4.1972, c. 100-59; and 19.5.1972, c. 135.
10. Bn. (I), 17.8.1973.
11. *Ibid.*, 21.7.1986.
12. Bn. (II), 20.10.1997.
13. *Ibid.*, 20.11.1998.
14. *Ibid.*, 28.7.2000.
15. The Rajya Sabha Secretariat (Methods of Recruitment and Qualifications for Appointment) Order, 1974 (as revised upto 1994).
16. Vide Office Order Part-I No. 4/2008-Perl. dated the 19 September 2008.
17. Bn. (II), 5.9.1964.
18. *Ibid.*, 20.2.1970.
19. R.S. Deb., 4.3.1970, c. 188-90.
20. Bn. (II), 20.2.1970 and 10.4.1987.
21. *Ibid.*, 23.2.1996.
22. R.S. Deb., 5.9.1988, c. 36.
23. Bn. (II), 28.3.1979.
24. *Ibid.*, 22.5.1996.
25. R.S. Deb., 13.3.1996, c. 300-05; 19.3.1986, c. 257-59; and 8.5.1987, c. 380-86.
26. F. No. EDO/RS/2000.

- 
- 27. Copyright Act, 1957, s. 17 *read with* s. 2(k)(ii).
  - 28. F. No. 20/80-86-ED(E).
  - 29. Bn. (II), 6.12.1994.
  - 30. GPC mts., 14.2.1995.
  - 31. *Ibid.*, 20.2.1997.
  - 32. Annual Report 2014, O&M Section, Rajya Sabha Secretariat.
  - 33. [www.rstv.nic.in/rstv/aboutus.asp](http://www.rstv.nic.in/rstv/aboutus.asp).

**APPENDIX**  
**Sessions of Rajya Sabha**

Session	Date of Summoning Order	Date of Commencement	Date of Termination (Adjournment <i>sine die</i> )	Date of Prorogation	Total No. of Actual Working Days
1	2	3	4	5	6
1st	17.04.1952	13.05.1952 14.07.1952	31.05.1952 14.08.1952	19.08.1952	13 25   60
2nd	09.09.1952	24.11.1952	22.12.1952	03.01.1953	22
3rd	14.01.1953	11.02.1953 25.03.1953	09.03.1953 16.05.1953	19.05.1953	20 31
4th	05.08.1953	24.08.1953	23.09.1953	25.09.1953	24   100
5th	01.10.1953	23.11.1953	24.12.1953	26.12.1953	25
6th	12.01.1954	15.02.1954 19.04.1954	18.03.1954 19.05.1954	22.05.1954	25 25
7th	13.06.1954	23.08.1954	30.09.1954	01.10.1954	29   103
8th	08.10.1954	25.11.1954	24.12.1954	24.12.1954	24
9th	10.01.1955	21.02.1955	04.05.1955	06.05.1955	50
10th	26.05.1955	16.08.1955	01.10.1955	04.10.1955	35   111
11th	14.10.1955	21.11.1955	24.12.1955	26.12.1955	26
12th	30.12.1955	15.02.1956	16.03.1956	17.03.1956	23
13th	22.03.1956	23.04.1956	31.05.1956	02.06.1956	29
14th	09.06.1956	30.07.1956	13.09.1956	15.09.1956	34   113
15th	25.09.1956	19.11.1956	22.12.1956	23.12.1956	27
16th	18.02.1957	18.03.1957	29.03.1957	30.03.1957	10
17th	24.04.1957	13.05.1957	01.06.1957	01.06.1957	17
18th	19.06.1957	12.08.1957	14.09.1957	14.09.1957	23
19th	17.09.1957	18.11.1957	24.12.1957	24.12.1957	28   78

1	2	3	4	5	6
20th	28.12.1957	10.02.1958	14.03.1958	15.03.1958	23
21st	19.03.1958	22.04.1958	10.05.1958	12.05.1958	16
22nd	20.05.1958	18.08.1958	27.09.1958	01.10.1958	30
23rd	09.10.1958	24.11.1958	24.12.1958	25.12.1958	22
24th	03.01.1959	09.02.1959	13.03.1959	14.03.1959	26
25th	20.03.1959	20.04.1959	08.05.1959	09.05.1959	15
26th	19.05.1959	10.08.1959	11.09.1959	12.09.1959	24
27th	18.09.1959	23.11.1959	22.12.1959	23.12.1959	22
28th	31.12.1959	08.02.1960	11.03.1960	12.03.1960	25
29th	16.03.1960	06.04.1960	29.04.1960	01.05.1960	18
30th	06.05.1960	08.08.1960	09.09.1960	10.09.1960	24
31st	20.09.1960	28.11.1960	23.12.1960	24.12.1960	20
32nd	26.12.1960	14.02.1961	18.03.1961	23.03.1961	24
33rd	23.03.1961	27.03.1961	30.03.1961	31.03.1961	04
34th	02.04.1961	19.04.1961	05.05.1961	10.05.1961	13
35th	07.06.1961	14.08.1961	08.09.1961	09.09.1961	19
36th	11.09.1961	27.11.1961	15.12.1961	16.12.1961	15
37th	14.02.1962	12.03.1962	30.03.1962	31.03.1962	13
38th	03.04.1962	17.04.1962	11.05.1962	12.05.1962	18
39th	16.05.1962	14.06.1962	26.06.1962	28.06.1962	11
40th	30.06.1962	06.08.1962	07.09.1962	09.09.1962	23
41st	28.10.1962	08.11.1962	12.12.1962		26
		21.01.1963	25.01.1963	29.01.1963	05
42nd	31.01.1963	18.02.1963	20.03.1963	21.03.1963	22
43rd	23.03.1963	22.04.1963	11.05.1963	17.05.1963	17
44th	27.05.1963	13.08.1963	21.09.1963	23.09.1963	29
45th	29.09.1963	18.11.1963	23.12.1963	24.12.1963	27
46th	30.12.1963	10.02.1964	17.03.1964	18.03.1964	27
47th	20.03.1964	21.04.1964	08.05.1964	09.05.1964	14
48th	10.05.1964	27.05.1964	06.06.1964	09.06.1964	08
49th	18.07.1964	07.09.1964	03.10.1964	05.10.1964	20
50th	07.10.1964	16.11.1964	24.12.1964	25.12.1964	28

1	2	3	4	5	6	
51st	04.01.1965	17.02.1965	31.03.1965	02.04.1965	29	
52nd	04.04.1965	03.05.1965	14.05.1965	15.05.1965	10	
53rd	01.06.1965	16.08.1965	24.09.1965	25.09.1965	29	96
54th	29.09.1965	03.11.1965	11.12.1965	13.12.1965	28	
55th	18.12.1965	14.02.1966	07.04.1966	12.04.1966	36	
56th	16.04.1966	03.05.1966	19.05.1966	20.05.1966	13	
57th	21.05.1966	25.07.1966	10.09.1966	12.09.1966	35	109
58th	14.09.1966	07.11.1966	10.12.1966	13.12.1966	25	
59th	04.03.1967	18.03.1967	11.04.1967	13.04.1967	17	
60th	16.04.1967	22.05.1967	24.06.1967	25.06.1967	26	
61st	03.07.1967	24.07.1967	18.08.1967	24.08.1967	20	91
62nd	04.09.1967	20.11.1967	27.12.1967	30.12.1967	28	
63rd	08.01.1968	12.02.1968	28.03.1968	29.03.1968	33	
64th	04.04.1968	29.04.1968	13.05.1968	15.05.1968	12	
65th	20.05.1968	22.07.1968	31.8.1968	04.09.1968	28	103
66th	18.09.1968	18.11.1968	28.12.1968	30.12.1968	30	
67th	04.01.1969	17.02.1969	31.03.1969	02.04.1969	30	
68th	03.04.1969	28.04.1969	19.05.1969	21.05.1969	17	
69th	28.05.1969	21.07.1969	29.08.1969	30.08.1969	28	102
70th	16.09.1969	17.11.1969	24.12.1969	26.12.1969	27	
71st	03.01.1970	20.02.1970	04.04.1970	07.04.1970	29	
72nd	09.04.1970	27.04.1970	23.05.1970	27.05.1970	20	
73rd	01.06.1970	27.07.1970	07.09.1970	09.09.1970	30	107
74th	12.09.1970	9.11.1970	18.12.1970	23.12.1970	28	
75th	15.03.1971	23.03.1971	07.04.1971	14.04.1971	13	
76th	17.04.1971	24.05.1971	25.06.1971	29.06.1971	25	
77th	01.07.1971	19.07.1971	14.08.1971	19.08.1971	20	89
78th	29.09.1971	15.11.1971	24.12.1971	26.12.1971	31	
79th	18.01.1972	13.03.1972	14.04.1972	15.04.1972	23	
80th	17.04.1972	08.05.1972	03.06.1972	05.06.1972	21	
81st	10.06.1972	31.07.1972	04.09.1972	06.09.1972	25	
82nd	12.09.1972	13.11.1972	23.12.1972	28.12.1972	30	99

1	2	3	4	5	6
83rd	03.01.1973	19.02.1973	31.03.1973	02.04.1973	30
84th	04.04.1973	30.04.1973	19.05.1973	25.05.1973	14
85th	28.05.1973	23.07.1973	04.09.1973	07.09.1973	29
86th	13.09.1973	12.11.1973	24.12.1973	25.12.1973	32
87th	09.01.1974	18.02.1974	26.03.1974	27.03.1974	25
88th	29.03.1974	22.04.1974	14.05.1974	17.05.1974	16
89th	30.05.1974	22.07.1974	11.09.1974	12.09.1974	40
90th	24.09.1974	11.11.1974	21.12.1974	24.12.1974	28
91st	18.01.1975	17.02.1975	26.03.1975	31.03.1975	28
92nd	17.04.1975	25.04.1975	14.05.1975	16.05.1975	14
93rd	09.07.1975	21.07.1975	09.08.1975	03.09.1975	16
94th	15.12.1975	05.01.1976	06.02.1976	09.02.1976	23
95th	11.02.1976	08.03.1976	03.04.1976	05.04.1976	20
96th	07.04.1976	10.05.1976	28.05.1976	29.05.1976	14
97th	04.06.1976	10.08.1976	03.09.1976	05.09.1976	18
98th	17.09.1976	03.11.1976	15.11.1976	17.11.1976	09
99th	22.02.1977	28.02.1977	01.03.1977	02.03.1977	02
100th	24.03.1977	28.03.1977	11.04.1977	12.04.1977	10
101st	13.05.1977	11.06.1977	28.06.1977	29.06.1977	13
102nd	02.07.1977	18.07.1977	09.08.1977	11.08.1977	17
103rd	15.09.1977	14.11.1977	24.12.1977	28.12.1977	28
104th	25.01.1978	20.02.1978	23.03.1978	28.03.1978	23
105th	30.03.1978	24.04.1978	18.05.1978	19.05.1978	17
106th	27.05.1978	17.07.1978	31.08.1978	05.09.1978	32
107th	16.10.1978	20.11.1978	26.12.1978	26.12.1978	25
108th	11.01.1979	19.02.1979	28.03.1979	29.03.1979	27
109th	07.04.1979	24.04.1979	23.05.1979	25.05.1979	20
110th	03.06.1979	09.07.1979	16.07.1979	03.08.1979	06
111th	07.08.1979	20.08.1979	20.08.1979	24.08.1979	01
112th	15.01.1980	23.01.1980	05.02.1980	06.02.1980	10
113th	23.02.1980	11.03.1980	31.03.1980	31.03.1980	14
114th	23.05.1980	09.06.1980	09.07.1980	10.07.1980	23
115th	10.07.1980	23.07.1980	18.08.1980	19.08.1980	16
116th	14.10.1980	17.11.1980	24.12.1980	27.12.1980	27

1	2	3	4	5	6
117th	07.01.1981	16.02.1981	26.03.1981	31.03.1981	26
118th	04.04.1981	20.04.1981	08.05.1981	12.05.1981	14
119th	27.07.1981	17.08.1981	18.09.1981	22.09.1981	25
120th	24.10.1981	23.11.1981	24.12.1981	28.12.1981	24
121st	15.01.1982	18.02.1982	31.03.1982	01.04.1982	29
122nd	05.04.1982	26.04.1982	06.05.1982	12.05.1982	09
123rd	12.05.1982	08.07.1982	13.08.1982	17.08.1982	24
124th	11.09.1982	04.10.1982	05.11.1982	09.11.1982	20
125th	15.01.1983	18.02.1983	25.03.1983	01.04.1983	21
126th	02.04.1983	26.04.1983	10.05.1983	13.05.1983	11
127th	23.06.1983	25.07.1983	26.08.1983	30.08.1983	23
128th	17.10.1983	15.11.1983	22.12.1983	24.12.1983	22
129th	30.01.1984	23.02.1984	23.03.1984	31.03.1984	22
130th	04.04.1984	23.04.1984	10.05.1984	17.05.1984	14
131st	28.06.1984	23.07.1984	29.08.1984	11.09.1984	27
132nd	02.01.1985	17.01.1985	31.01.1985	09.02.1985	09
133rd	27.02.1985	13.03.1985	29.03.1985	02.04.1985	14
134th	09.04.1985	29.04.1985	21.05.1985	28.05.1985	16
135th	28.06.1985	23.07.1985	29.08.1985	30.08.1985	26
136th	16.10.1985	18.11.1985	20.12.1985	24.12.1985	24
137th	31.01.1986	20.02.1986	20.03.1986	22.03.1986	20
138th	27.03.1986	21.04.1986	14.05.1986	17.05.1986	15
139th	26.06.1986	17.07.1986	22.08.1986	30.08.1986	24
140th	09.10.1986	04.11.1986	10.12.1986	12.12.1986	27
141st	30.01.1987	23.02.1987	20.03.1987	24.03.1987	19
142nd	27.03.1987	13.04.1987	12.05.1987	19.05.1987	19
143rd	07.07.1987	27.07.1987	31.08.1987	03.09.1987	25
144th	13.10.1987	06.11.1987	16.12.1987	18.12.1987	29
145th	29.01.1988	22.02.1988	30.03.1988	06.04.1988	26
146th	08.04.1988	25.04.1988	13.05.1988	18.05.1988	15
147th	24.06.1988	27.07.1988	06.09.1988	29.09.1988	26
148th	05.10.1988	02.11.1988	20.12.1988	05.01.1989	22

1	2	3	4	5	6
149th	31.01.1989	21.02.1989	04.04.1989	05.04.1989	25
150th	06.04.1989	24.04.1989	11.05.1989	23.05.1989	14
151st	24.06.1989	18.07.1989	18.08.1989		22
		11.10.1989	13.10.1989	20.10.1989	03
152nd	07.12.1989	20.12.1989	29.12.1989	06.01.1990	07
153rd	05.02.1990	12.03.1990	30.03.1990		15
		09.04.1990	10.04.1990	12.04.1990	02
154th	16.04.1990	30.04.1990	01.06.1990	08.06.1990	23
155th	19.06.1990	07.08.1990	07.08.1990		21
		01.10.1990	05.10.1990	11.10.1990	03
156th	29.11.1990	27.12.1990	11.01.1991	22.01.1991	10
157th	30.01.1991	21.02.1991	13.03.1991	14.03.1991	12
158th	24.05.1991	03.06.1991	04.06.1991	08.06.1991	02
159th	28.06.1991	11.07.1991	07.08.1991	14.08.1991	19
160th	14.08.1991	26.08.1991	18.09.1991	26.09.1991	18
161st	02.11.1991	20.11.1991	21.12.1991	23.12.1991	23
162nd	23.01.1992	24.02.1992	03.04.1992	07.04.1992	28
163rd	08.04.1992	27.04.1992	14.05.1992	25.05.1992	13
164th	18.06.1992	08.07.1992	20.08.1992	25.8.1992	31
165th	26.10.1992	24.11.1992	23.12.1992	24.12.1992	18
166th	02.02.1993	22.02.1993	31.03.1993	01.04.1993	25
167th	07.04.1993	26.04.1993	14.05.1993	18.05.1993	14
168th	07.07.1993	26.07.1993	27.08.1993	23.09.1993	22
169th	12.11.1993	02.12.1993	30.12.1993	07.01.1994	18
170th	02.02.1994	21.02.1994	18.03.1994		16
		18.04.1994	13.05.1994		19
		13.06.1994	15.06.1994	18.06.1994	03
171st	07.07.1994	25.07.1994	26.08.1994	05.09.1994	24
172nd	17.11.1994	07.12.1994	23.12.1994	27.12.1994	13
173rd	31.01.1995	13.02.1995	14.02.1995		02
		14.03.1995	31.03.1995		12
		24.04.1995	02.06.1995	15.06.1995	27
174th	06.07.1995	31.07.1995	26.08.1995	06.09.1995	16
175th	11.11.1995	27.11.1995	22.12.1995	29.12.1995	20

1	2	3	4	5	6
176th	05.02.1996	26.02.1996	12.03.1996	14.03.1996	10
177th	18.05.1996	24.05.1996	30.05.1996	13.06.1996	02
178th	24.06.1996	10.07.1996	02.08.1996		17
		26.08.1996	13.09.1996	19.09.1996	13
179th	01.11.1996	20.11.1996	20.12.1996	24.12.1996	22
180th	01.02.1997	20.02.1997	21.03.1997		36
		22.04.1997	16.05.1997	21.05.1997	
181st	16.06.1997	23.07.1997	01.09.1997	02.09.1997	23
182nd	13.10.1997	19.11.1997	01.12.1997	09.12.1997	09
183rd	21.03.1998	25.03.1998	02.04.1998	06.04.1998	06
184th	29.04.1998	27.05.1998	04.08.1998	10.08.1998	35
185th	20.10.1998	30.11.1998	23.12.1998	31.12.1998	18
186th	25.01.1999	22.02.1999	19.03.1999		
		15.04.1999	23.04.1999	29.04.1999	23
187th	15.10.1999	21.10.1999	29.10.1999	02.01.1999	6
188th	08.11.1999	29.11.1999	23.12.1999	27.12.1999	19
189th	01.02.2000	23.02.2000	16.03.2000	23.05.2000	38
		17.04.2000	17.05.2000		
190th	22.06.2000	24.07.2000	25.08.2000	28.08.2000	22
191st	03.11.2000	20.11.2000	22.12.2000	22.12.2000	25
192nd	30.01.2001	19.02.2001	23.03.2001		
		16.04.2001	27.04.2001	03.05.2001	31
193rd	20.06.2001	23.07.2001	31.08.2001	03.09.2001	29
194th	29.10.2001	19.11.2001	19.12.2001	21.12.2001	21
195th	23.01.2002	25.02.2002	22.03.2002		38
		15.04.2002	17.05.2002	22.05.2002	
196th	27.06.2002	15.07.2002	12.08.2002	14.08.2002	21
197th	31.10.2002	18.11.2002	20.12.2002	24.12.2002	23
198th	30.01.2003	17.02.2003	09.05.2003	10.05.2003	37
		07.04.2003			
199th	30.06.2003	21.07.2003	22.08.2003	26.08.2003	21
200th	11.11.2003	02.12.2003	23.12.2003	10.02.2004	16

1	2	3	4	5	6
		30.01.2004	05.02.2004	10.02.2004	04
201st	27.05.2004	04.06.2004	10.06.2004	11.06.2004	05
202nd	18.06.2004	05.07.2004	23.07.2004	30.08.2004	24
		16.08.2004	26.08.2004		50
203rd	16.11.2004	01.12.2004	23.12.2004	24.12.2004	17
204th	31.01.2005	25.02.2005	24.03.2005		38
		19.04.2005	13.05.2005	17.05.2005	
205th	08.07.2005	25.07.2005	30.08.2005	01.09.2005	24
206th	03.11.2005	23.11.2005	23.12.2005	28.12.2005	23
207th	28.01.2006	16.02.2006	22.03.2006		35
		10.05.2006	23.05.2006	25.05.2006	
208th	06.07.2006	24.07.2006	25.08.2006	30.08.2006	22
209th	03.11.2006	22.11.2006	19.12.2006	21.12.2006	20
210th	06.02.2007	23.02.2007	21.03.2007	21.05.2007	
		26.04.2007	17.05.2007		31
211th	27.07.2007	10.08.2007	10.09.2007	11.09.2007	17
212th	05.11.2007	15.11.2007	07.12.2007	12.12.2007	17
213th	11.02.2008	25.02.2008	20.03.2008	10.05.2008	
		15.04.2008	06.05.2008		30
214th	09.09.2008	17.10.2008	24.10.2008	24.12.2008	16
		10.12.2008	23.12.2008		46
215th	22.01.2009	12.02.2009	26.02.2009	02.03.2009	10
216th	26.05.2009	04.06.2009	09.06.2009	12.06.2009	04
217th	16.06.2009	02.07.2009	07.08.2009	11.08.2009	26
218th	29.10.2009	19.11.2009	22.12.2009	27.12.2009	23
219th	03.02.2010	22.02.2010	16.03.2010	11.05.2010	15
		15.04.2010	07.05.2010		17
220th	07.07.2010	26.07.2010	31.08.2010	03.09.2010	26
221st	15.10.2010	09.11.2010	13.12.2010	17.12.2010	23
222nd	28.01.2011	21.02.2011	16.03.2011	29.03.2011	17
		17.03.2011	25.03.2011		06
223rd	12.07.2011	01.08.2011	08.09.2011	15.09.2011	26
224th	03.11.2011	22.11.2011	30.12.2011	05.01.2012	24
					73

1	2	3	4	5	6	
225th	16.02.2012	12.03.2012	30.03.2012	28.05.2012	14	
		24.04.2012	22.05.2012		21	
226th	19.07.2012	08.08.2012	07.09.2012	12.09.2012	19	74
227th	02.11.2012	22.11.2012	20.12.2012	24.12.2012	20	
228th	05.02.2013	21.02.2013	22.03.2013	10.05.2013	21	
		22.04.2013	08.05.2013		11	63
229th	19.07.2013	05.08.2013	07.09.2013	10.09.2013	21	
230th	13.11.2013	05.12.2013	18.12.2013		10	
		05.02.2014	21.02.2014	27.02.2014	12	
231st	30.05.2014	09.06.2014	11.06.2014	13.06.2014	03	
232nd	25.06.2014	07.07.2014	14.08.2014	14.08.2014	27	64
233rd	29.10.2014	24.11.2014	23.12.2014	23.12.2014	22	
234th	29.01.2015	23.02.2015	20.03.2015*	28.03.2015	19	
235th	08.04.2015	23.04.2015	13.05.2015	14.05.2015	13	
236th	27.06.2015	21.07.2015	13.08.2015	10.09.2015	17	69
237th	11.11.2015	26.11.2015	23.12.2015	06.01.2016	20	

\* Adjourned to meet again on 23.04.2015. However, the House was prorogued by the President on 28.03.2015.



## SUBJECT INDEX

<b>ABSENCE, LEAVE OF:</b>		<b>ADMONITION/REPROBATION/ REPRIMAND,</b>	313
allowance etc. during,	433		
Attendance Register,	258, 423, 433, 434	<b>AFFIRMATION:</b> (see under Oath or Affirmation)	
constitutional/legal provision reg.,	423		
Deputy Chairman, to,	431	<b>ALLEGATION (S):</b>	
disposal of application of,	428	making of,	336, 976-79
grounds for,	426	members, against,	336
Leader of the House, to,	431	outsiders, against,	977
member who has not subscribed oath/affirmation,	432	refutation of,	982
members, to,	425, 432	to be avoided,	979
Ministers, to,	431	<b>ALLOCATION OF SEATS TO STATES/UTS:</b>	
non-granting of,	429	(see under Fourth Schedule)	
period of,	425	<b>ALLOCATION OF TIME:</b>	
procedure for grant of,	425	for government business,	448
revocation of,	433	<b>ALLOTMENT OF SEAT(S):</b>	
supply of information to courts of law, reg.,	434	changes in,	416
supply of information to member, reg.,	433	Deputy Chairman, to,	412, 415
vacation of seat on account of,	430	former Governors, to,	416
<b>ADJOURNMENT MOTION:</b>		former Leaders of the House, to,	415, 416
absence of, in Rajya Sabha,	596	former Ministers, to,	416
<b>ADJOURNMENT OF THE HOUSE:</b>		Leader of the House, to,	412
absence of Minister,	383	Leader of the Opposition, to,	412, 415
absence of quorum,	378	Ministers from Rajya Sabha, to,	415
before schedule,	210, 386	opposition parties/groups, to,	417
due to demise of members, etc.,	386	Prime Minister, to,	412
due to disorder,	211, 387	recognized parties/groups, to,	414
due to, other circumstances,	212	smaller groups, to,	414
for a while,	382, 384	<b>AMENDMENTS:</b>	
for the rest of the day,	211, 379	admissibility of,	695
on the opening day,	468	amending bills, to,	697
<i>sine die</i> ,	209, 391	bills, to,	695
without ringing bell,	379	categories of,	745
		clauses of bills, to,	682, 695
		expiring laws continuance bills, to,	697

list of,	699	relation with Parliament,	134, 136
motion of thanks, to,	233	<b>BILLS:</b>	
motions, to,	802	adjournment of debate on,	703,733
repealing bills, to,	697	amended by Rajya Sabha,	710
resolution, to,	766	amending,	667
to the Constitution,	740	amendments to,	695-698
withdrawal of,	700	appropriation,	830
<b>ANNUAL FINANCIAL STATEMENT:</b>		assent to, by President,	710, 719
(see under Budget)		authentication by Chairman,	97
<b>APPROPRIATION BILLS,</b>	830	certification of a money,	715
<b>ARRANGEMENT OF BUSINESS:</b>		choice of House reg. introduction of,	673
(see under Business)		circulation of,	677, 681, 682, 683, 707, 734
<b>ARREST/DETENTION:</b>		clause-by-clause consideration of,	695
attending session while under,	260	clauses etc. of,	665
criminal offence, no immunity for,	260	consolidating,	667
freedom from,	259	constitution amendment,	667, 740
handcuffing of members,	268	convention regarding introduction of,	679
ill-treatment of members under,	265	copies of,	681
immunity from,	262	correction of patent errors in	702
intimation reg.,	262, 264	expiring laws (continuance),	667
personal explanation, reg.,	263, 982	finance,	830
preventive detention under,	260	financial,	667, 714, 720
privilege of freedom from,	261	Financial, of category 'A',	721
withholding communications from	265	Financial, of category 'B',	721
a member under,		first reading,	678
within the precincts,	262	format of,	665
<b>ASSAULT ON MEMBERS:</b>		formulation of, legislative policy	672
(see under Members)		reg.,	
<b>ASSURANCES:</b>		government,	672
Committee on,	886	Hindi version of,	674
culling out of,	888	introduction of,	678
government, by,	886	legislative competence of House,	668
non-fulfillment of,	892	reg.,	
scrutiny of,	887	member-in-charge of,	682
<b>ATTENDANCE REGISTER:</b>		message reg.,	707, 717
supply of information to court	434	money, not returned within	
of law from,		stipulated time,	718
supply of information to member	433	money, special procedure reg.,	667, 714, 716
from,			
<b>ATTORNEY-GENERAL:</b>			
appointment of,	134		
functions of,	134		

---

motion for consideration of,	682	<b>BUDGET:</b>	
motions after introduction of,	681	alleged leakage of,	828
non-reference of a money, to a joint committee,	720	annual financial statement,	826
objection to introduction of a money, in Rajya Sabha,	720	appropriation bills,	830
objection to introduction of a, under article 117(1),	723	discussion on,	828
objects and reasons, statement of,	667	discussion on working of ministries,	829
origin in Lok Sabha,	707	finance,	830
original,	667	general,	826
originating in Rajya Sabha,	672	meaning of,	826
passing of,	701	papers, distribution of,	827
preparation of,	673	presentation of,	826
President, recommendation of,	698, 732	procedure of,	826
President, return by,	712	railway,	826
private member's,	728	Rajya Sabha Secretariat, of,	1065
public opinion,	683, 734	time for government,	448
publication of,	676	vote on account,	13, 831
reference to committee,	682, 684	<b>BUSINESS:</b>	
register of,	675, 706, 734	allocation of time for,	448
removal from register of,	706	announcement of,	436
repealing and amending,	667	arrangement of,	436, 448
requirements of,	667	consultation reg.,	356
returned for reconsideration,	712	discussions,	446
scrutiny of,	674	financial,	447
second reading,	681	government,	436
select/joint committees, ref. to,	684, 693, 724, 747	items of,	437
special procedure regarding a money,	716	legislative,	445
standing committees, ref. to,	693	list of,	438, 458, 465
third reading,	701	M/o Parliamentary Affairs and,	449, 450
three readings of,	671	motions for election to committees,	444
to replace ordinances,	667, 725, 728	motions for introduction or withdrawal of bills,	444
types of,	667	motions,	445
validating,	667	order of,	452
what are not financial,	723	papers laid on the table,	437
withdrawal of, amendments to,	700, 703	personal explanation, making of,	442
withholding of assent to,	711	private members,	454
		resolutions and arrangement of,	445
		statement of general,	450
		statements by Ministers on matters of public importance,	440
		statements in response to calling attention,	440

statements to correct inaccuracies,	439	nomination to various bodies by,	97
time for government,	448	obituary and other references by,	96
<b>CALLING ATTENTION:</b>		powers and functions of,	92
absent member, by,	620	residuary powers of,	1038
admission of,	601	salaries, allowances, etc. of,	92
circulation of copies of the statement reg.,	614	Tenth Schedule, powers of,	38
conclusion of, time for,	624	<b>CHAMBER, RAJYA SABHA:</b>	
conversion of, into discussion,	626	allotment of seats in,	414
correcting the statement/further clarifying points, reg.,	624	galleries in,	412,1036
important subjects raised through,	628	Presiding Officer's Chair in,	412
intimation about an admitted notice, reg.,	608	seating arrangement in,	411-412
lapse of a notice, reg.,	608	seating capacity of,	411
mode of,	613	<b>CLOSURE MOTION,</b>	984
modification of a notice, reg.,	604	<b>COMMITTEES:</b>	
more than one, on a day,	609	<i>ad hoc</i> ,	835
non admission of,	604	categories of,	834
postponement of,	611	chairmanship of,	839
priority of notices, reg.,	607	constitution of,	837
procedure for seeking clarifications, reg.,	620	consultative,	837
procedure of giving notices, reg.,	600	department-related,	835
procedure regarding introduction of,	598	election/nomination to,	355
provisions in Rule 180, reg.,	599	examination of witness,	920
reply to clarifications on,	622	procedure reg.,	
statement by the Minister in response to,	614	general structure,	834
<i>sub judice</i> , matter, on,	628	government,	837, 952
time for taking up,	610	reporting proceedings of,	1029
time limit for seeking clarifications on,	622	<i>ad hoc Committees:</i>	
transfer to a Minister of,	604	appointed by motions,	947-49
<b>CHAIRMAN PRO-TEM,</b>	105	Chairman, appointed by,	947
<b>CHAIRMAN, RAJYA SABHA:</b>		constituted by Rajya Sabha,	947
<i>ad hoc</i> committees appointed by,	754	consultative committees under State Legislature (Delegation of Powers) Act,	946
casting vote by,	94	Joint Committee on Judges (Inquiry) Rules,	946
Chair of,	412	mode of constitution of,	947
election of,	88	Presiding Officers, appointed to advise,	949-51
list of,	90	<b>Business Advisory Committee:</b>	
		constitution of,	839-40
		functioning of,	844

---

functions of,	840-44	Committee on Public Accounts,	938-940
procedure reg.,	846	Committee on Public Undertakings,	940-941
recommendations of,	849	Committee on Welfare of OBCs,	943
report of,	845-48	Committee on Welfare of SC/STs,	943
representation of parties/groups in,	357	Joint Committee on Offices of Profit,	944
<i>Committee on Empowerment of Women:</i>		Library Committee,	944
constitution of,	945	Railway Convention Committee,	942
functions of,	945	<i>Department-Related Parliamentary Standing Committees:</i>	
<i>Committee on Ethics:</i>		applicability of Select Committee rules in,	938
constitution of,	864	background of,	929-933
eighth report,	868	constitution of,	933
fourth report,	867	functions of,	933-36
functioning of,	867	list of,	835, 931-32
functions of,	865	matters not to be considered by,	936
powers of,	866	reports of,	936-938
seventh report reg.,	868	rules reg.,	936
<i>Committee on Member of Parliament Local Area Development Scheme:</i>		<i>General Purposes Committee:</i>	
constitution of,	912	appointment of sub-committees by,	910-911
reports of,	912-13	composition of,	908
<i>Committee on Papers Laid on the Table:</i>		constitution of,	908
background/genesis,	893-95	functions of,	909
constitution of,	895	important subjects considered by,	909-10
functioning of,	897	special report by,	911
functions of,	896	<i>Government Assurances Committee:</i>	
powers of,	896	computerization of,	893
recommendations of,	897-99	constitution of,	887
reports of,	897	disagreement with government,	892
<i>Committee on Petitions:</i>		expression constituting assurances,	892
constitution of,	852	functioning of,	888
functioning of,	853-54	functions of,	887
functions of,	852	genesis of,	886
reports of,	855	important recommendations of,	890-92
representations to,	855	powers of,	887
<i>Committee on Provision of Computer Equipment to Members of Rajya Sabha,</i>	911	procedure of,	888
<i>Committees on which Rajya Sabha is represented:</i>		report of,	890
Committee on Empowerment of Women,	945	House Committee:	
		constitution of,	899-900
		functioning of,	900-901

functions of,	900	functioning of,	859-60
powers of,	900	functions of,	857-58
reports of,	901	powers of,	858
<i>Joint&gt;Select Committees, General:</i>		<i>ref. to, by Chairman,</i>	857
chairman of,	916	regulating procedure of,	864
constitution of,	913-14	reports of,	860
evidence,	918-22	<i>Rules Committee:</i>	
functioning of,	923-24	constitution of,	903
functions of,	917	functioning of,	904
meetings of,	918	functions of,	903
minutes of dissent,	927	historical background,	901-02
motion reg.,	914-15	new rules,	902-03
motions, constituted by,	947	recommendations of,	904-08
printing of reports of,	929	reports of,	904
procedure reg.,	922-23	<i>Subordinate Legislation Committee:</i>	
quorum in,	916	constitution of,	870
report of,	924-929	functioning of,	877
sub-committees of,	917	functions of,	871
vacancies in,	915-16	powers of,	870
<i>Joint&gt;Select Committees on Bills:</i>		processing of statutory motions,	884
appointment of members on,	684	recommendations of,	879-884
appointment of Ministers on,	686	reports of,	879
consideration of bill as reported by,	693	study tours of,	879
discussion on motion reg.,	688	sub-committee of,	879
minutes of dissent,	927	<b>CODE OF CONDUCT,</b>	340, 867
motion reg.,	684, 914	<b>COMMUNICATION BETWEEN:</b>	
number of members on,	687	House and President,	240
procedure after presentation of report of,	693	two Houses,	167
<i>Joint Committee appointed by Motions,</i>	947	<b>CONDUCT, RULES OF:</b>	
<i>Joint Committee on Offices of Profit,</i>	944	allegations/aspersions reg.,	333, 336
<i>Joint Committee on Official Language,</i>	946	Chair, questions to be asked through,	336
<i>Joint Committee on Salaries and Allowances of Members of Parliament,</i>	945-46	customs and conventions,	318
<i>Joint Committees appointed by Presiding Officers,</i>	949	expulsion,	318
<i>Privileges Committee:</i>		general observations reg.,	311
consideration, reports of,	862-64	irrelevance or repetition,	337
constitution of,	856	personal and pecuniary interest,	338
		declaration of,	
		procedure when Chairperson rises,	337
		punishment for misconduct by members,	312

---

reprobation reg.,	313	no interruptions during,	324
suspension,	316	personal interest, declaration of,	338
to be observed in the House,	322	procedure when Chairperson rises	337
to be observed while speaking,	330	during,	
withdrawal from the House reg.,	315	publication of,	1056
<b>CONSTITUTION AMENDMENTS:</b>		repetition during,	337
Art. 368 under,	740	right of reply,	983
bills introduced in Rajya Sabha,	742	rules to be observed during,	330
categories of,	745	statements, contradiction of,	326
Parliament's power reg.,	740	<b>DECISIONS OF HOUSE,</b>	985
ratification by State Legislatures of,	748	<b>DEPUTY CHAIRMAN:</b>	
<b>CONSULTATIVE COMMITTEES,</b>	335, 837, 951-52	absence of,	431
<b>COURTS:</b>		decision of, no appeal against,	108
breach of privileges and statements in affidavits/ petitions in,	275	duties of,	102
exemption from appearing as witness in,	261	election of,	98
freedom of speech, immunity from,	247	list of Deputy Chairmen,	100
privileges of Parliament and,	261, 303	order of precedence, place in,	102
production of documents in,	257	removal of, rule position,	102
Supreme Court and matter of privilege	303	salaries etc. of,	102
<b>CUSTOMS AND CONVENTIONS:</b> (see under Conduct, Rules of)		<b>DILATORY MOTIONS,</b>	802
<b>DEBATES:</b>		<b>DISCUSSIONS:</b>	
allegations, aspersions etc. during,	333, 336	bills, on,	679, 682, 695, 699, 701
allocation of time for the reports of the committees,	845	budget, on,	828
catching of, Chair's eye,	330	calling attention,	596
closure of,	984	conduct of high authorities,	977
criticisms, making of,	325	customs and conventions reg.,	318
frivolous observations reg.,	329	general rules reg.,	446
galleries, reference to,	325	half-an-hour,	581
language of,	334	matters of public importance,	436, 440
limitations on,	985	motion on,	445, 799
list of speakers in,	356	no-day-yet-named motions, reg.,	798
maiden speech,	326	President's Address, on,	230, 436
matters pertaining to the Chairman, Speaker, Secretariat, etc. not to be mentioned in,	320	resolutions reg.,	436, 445
methods for taking part in,	330	rules reg.,	972
		short duration,	436, 815
		<i>sub judice</i> matters, reg.,	972
		working of ministries, on,	829
		<b>DISQUALIFICATIONS FOR MEMBERSHIP:</b>	
		constitutional provisions reg.,	31

decision of the Election Commission on,	37	<b>ETIQUETTE, PARLIAMENTARY:</b> (see under Conduct, Rules of)	
decision of the President on,	37	<b>EXPULSION,</b>	318
declaratory clause,	34	<b>EXPUNCTIONS,</b>	1029
defection as a ground of,	37	<b>FINANCE BILL:</b>	
statutory provisions reg.,	35	alleged leakage of,	827
<b>DISSOLUTION OF LOK SABHA, EFFECT ON:</b>		Rajya Sabha and,	830
business pending before committees on,	215, 217	<b>FINANCIAL BILLS:</b>	
legislative business, on,	215	categories of,	721
<b>DIVISION:</b>		position of Rajya Sabha reg.,	15
abstention from,	1018	ref. to select/joint committees of,	724
automatic vote recorder, by,	1014	what are not,	723
bells, operation of,	1013	<b>FINANCIAL BUSINESS,</b>	447
casting vote by, presiding officers/ chairman of committee on a,	1019	<b>FINANCIAL PROCEDURE,</b>	826
correction, etc. in,	1015-16	<b>FINE, IMPOSITION OF, ON A CONTEMNER,</b>	276, 277
discretion of the Chair,	1014	<b>FOURTH SCHEDULE:</b>	
general procedure reg.,	1011-13	as on 26 Nov. 1949,	22
going into lobbies, by,	1017	as on 26 Jan. 1950,	23
result, announcement of,	1015-16	as amended in 1956,	25
slips, by,	1017	present allocation of seats,	27
<b>ELECTION TO RAJYA SABHA:</b>		<b>FREEDOM OF SPEECH ETC.,</b>	247
biennial,	43	<b>GALLERIES, ETC.,</b>	412, 1034, 1036
bye-election,	43	<b>GOVERNMENT COMMITTEES,</b>	952
deposit for,	46	<b>GOVERNMENT RESOLUTIONS:</b>	
Election Commission and,	30, 43	approving policies of the government, for,	771
electoral college for,	43	<b>HALF-AN-HOUR DISCUSSIONS:</b>	
filling nominations for,	44	draw of lots, reg.,	582
general procedure reg.,	42	member's absence and,	583
notification for,	44	notice reg.,	582
oath or affirmation,	30, 46	number of,	582
polling for,	44	procedure reg.,	581
returning officers for,	43	time for,	582
scrutiny of nominations,	44	<b>HOUSES OF PARLIAMENT:</b>	
single transferable vote, procedure in,	48	bar on comments on each other's proceedings by,	299
UT's electoral college for,	43	communication between,	167
withdrawal of nominations for,	44		
<b>EMERGENCY:</b>			
(see under Proclamation)			

---

controversies between,	176	Salary and Allowances of Leaders	123
dissolution of Lok Sabha, effect on business in Rajya Sabha,	215	of Opposition in Parliament Act, 1977	
Hindi names of,	21	salary and allowances to,	123
joint sittings of,	168	<b>LEAVE OF ABSENCE:</b>	
President and,	154	(see under Absence, Leave of)	
relation between,	166	<b>LEGISLATION:</b>	
rules of procedure reg.,	172	(see under Bills)	
special powers of,	166		
<b>IMPRISONMENT,</b>	276	<b>LIST OF BUSINESS,</b>	458
<b>LAYING OF:</b>		<b>LOK SABHA:</b>	
correspondence between Ministers,	988	dissolution of,	215
correspondence between President and Prime Minister,	990	Hindi nomenclature of,	12, 21
President's Acts,	787	relation with Rajya Sabha,	18
President's Address	229	special powers of,	166
procedure reg.,	994	<b>MEMBERS:</b>	
proclamations,	780	allegation against,	336
re-laying of a paper,	996	allotment of seats to,	415
report of a parliamentary delegation,	997	appellation M.P., use by,	53
secret documents etc.,	989, 1003	assault on,	275
sensitive notifications,	997	Code of Conduct for,	340, 865- 867
State correspondence,	990	constitutional provision,	31
statutory orders, list of,	997	dharna/demonstration in the precincts by,	329
<b>LEADER OF THE HOUSE:</b>		disqualifications of,	31, 38
absence of,	431	distributing pamphlets etc. in the precincts by,	327
advisory role of,	117	do's and don'ts for,	311
definition of,	113	election of,	42
delegation of functions by,	116	etiquette for,	311
genesis of the office of,	113	expulsion of,	318, 868, 869
list of,	120	handcuffing of,	268
oath/affirmation,	115	intimidation of,	276
Page Committee on,	114	nominated,	21, 51, 54
resolution moved by,	119	oath by,	397
responsibilities of,	113, 117- 118	pension of,	73
status of,	115	personal interest, declaration by,	338
<b>LEADER OF THE OPPOSITION:</b>		qualifications of,	30
facilities etc. to,	122	resignation by,	64
functions of,	121		
list of,	126		
responsibilities of,	122		

right of reply by,	983	introduction/withdrawal of bills, reg.,	444
rules of conduct by,	311, 322	Leader of the Opposition, by,	493
salaries and allowances of,	73	matters of public importance on,	436
suspension regarding,	316	no-day-yet-named,	448, 798, 816
term of office of,	54, 56	President's Address, Thanks on,	230
vacation of seats by,	60	Prime Minister, from,	492
<b>MINISTERS:</b>		private member's,	445
absence of,	431	repetition and withdrawal of,	801
appointment of,	127	statutory,	436
introduction of,	127	statutory, processing of,	884
making statements by,	1004	subject matter of,	803
on ceasing as members,	132	subsidiary,	796
presence of, during Motion of Thanks on President's Address,	235	substantive,	796
rights of non-members as,	132	<b>NATIONAL ANTHEM/SONG, PLAYING OF,</b>	390
<b>MONEY BILLS:</b>		<b>NOTICES:</b>	
certification of,	715	amendments to,	970
definition of,	714	circulation of,	970
objection to introduction of,	720	general procedure reg.,	968
in Rajya Sabha,		lapsing of,	971
special procedure reg.,	716	questions, reg.,	969
<b>MOTION FOR PAPERS,</b>	597	<b>OATH OR AFFIRMATION:</b>	
<b>MOTION OF THANKS:</b>		Chairman's Chamber, in,	405
amendments to,	233	constitutional/legal provisions reg.,	397
conveying of, to President,	239	form and language of,	403
discussion on,	230	interruptions during, making of,	408
presence of Ministers during,	235	order reg. making of,	402
<b>MOTIONS:</b>		procedure regarding,	401
adjournment, absence of,	596	right of members, who have not taken,	399
amendments to,	802	solemnity of, occasion of,	407
BAC, role reg.,	364	time limit for making,	400
Chair, from,	492	<b>OBITUARY REFERENCES:</b>	
classification of,	796	adjournments, during,	468
closure,	984	black-bordered bulletin,	473
definition of,	796	condolence resolutions,	472
dilatory,	802	former Chairman, to,	473
discussion on,	799	former members, to,	471
election to committees, reg.,	444		
general rules relating to,	797		
government,	445		

---

former Prime Ministers/Deputy Prime Ministers, to,	475	private members, by, procedure for,	999 994
<b>PARTIES/GROUPS:</b>			
former Secretary-General, to,	485	Chairman's directions reg.	346
important personalities, to,	476	recognition of,	
international personalities, to,	477	changing position of, in Rajya Sabha,	358
procedure for making of,	463	disqualification,	349
recommendation of GPC reg.,	466	expulsion from,	352
sitting members of Lok Sabha, to,	475	facilities to,	355
<b>OFFICE OF PROFIT:</b>			
additional statutory disqualifications,	35	merger,	349
declaratory clauses reg.,	34	position in House since 1952,	358
determinants of,	33	statement reg.,	
disqualification of members,	32, 60, 70	provision in Tenth Schedule, reg.,	348
exceptions to,	33	recognition of,	293, 346
Joint Committee on,	32	splits,	351
Parliament (Prevention of Disqualification) Act, 1959,	33	<b>PERSONAL EXPLANATION:</b>	
<b>OFFICIAL LANGUAGE, JOINT COMMITTEE ON,</b>			
ORDINANCES:		<b>PETITIONS:</b>	
bill replacing,	728	committee on,	849
disapproval of,	725, 728	form of,	850
enforcing provisions of a bill by,	725	presentation of,	851
laying of,	726	ref. to committee of,	852
objection in House reg.,	725	scope of,	850
promulgation of,	725	Secretary-General and,	851
statement reg.,	727-728	Tenth Schedule, under,	40
States under President's rule, in relation to,	727	<b>POINT OF ORDER:</b>	
validity of,	725	definition of,	1020
<b>PAPERS LAID ON THE TABLE:</b>			
authentication of,	994	how to raise a,	1021
by Secretary-General,	993	procedure after raising a,	1021
circulation of,	996	question hour, and,	518
competence in respect of,	991	rules reg. raising of,	1021
constitutionality of,	995	what is not a,	1023
custody of,	998	when to raise a,	1023
Ministers, by,	986	who can raise a,	1022
permission reg.,	1002	<b>POLITICAL COMPLEXION OF RAJYA SABHA:</b>	
		(see under Parties/Groups)	

<b>PRESIDENT'S ADDRESS:</b>		Chairman,	86, 92
ceremonies reg.,	224	Deputy Chairman,	98
constitutional provisions reg.,	222	non-panel members as,	108
contents of,	227	Vice-Chairmen, panel of,	106
correction of errors in,	229	<b>PRIVATE MEMBERS' BILLS:</b>	
date and time of,	223	adjournment of debate on,	733
disturbances during,	165, 226	circulation of, for opinion,	734
laying of,	228	drafting of,	729
Motions of Thanks on, amendment to,	233-239	draw of lots,	729
Motions of Thanks on, postponement of discussion on,	233, 235	enacted so far,	735
Motions of Thanks, discussion on,	230	introduction of,	730
significance of,	225	notice reg.,	728
<b>PRESIDENT:</b>		President's recommendation reg.,	732
address by,	222	register for,	734
assent to bill by,	710, 719	<b>PRIVILEGES OF PARLIAMENT:</b>	
election of,	154	appearing as witness before a Committee of State Legislature,	302
elections of, held so far,	157	arrest for criminal offences,	260
impeachment of,	159	assault etc. on members,	275
messages by,	240	attempt to defame members in a chargesheet,	283
Motions of Thanks to, conveying of,	239	banning procession before Parliament House,	285
oath of office by,	160	cases not amounting to,	282
Parliament, and,	154, 161	codification of,	304
powers and functions of,	161	complaints against members/ officers of the other House,	294
procedural restrictions on mentioning of,	163	consequential powers reg.,	246
qualifications of,	158	constitutional provisions reg.,	245
Rajya Sabha, and,	241	contempt and,	244
recommendation by, reg. bills,	971	contempt of,	276, 289
reflections on,	287	delay in sending intimation regarding arrest,	264
returning of bills by,	712	disclosure by a member,	249
returning officers, in the election of,	156	disrespect to members,	286
rule of, in States,	780	disturbances/disruptions from Visitor's Gallery,	278
succession to,	160	exclusion of Members of Rajya Sabha from certain committees of State Governments,	286
summoning by,	196	exemption from attending as witness in a court,	261
term of office of,	159	expunged portions, publication of,	252
value of votes in election of,	155		
<b>PRESIDING OFFICERS:</b>			
Chairman <i>pro-tem</i> ,	105		

---

foreign national and,	304	procedure for dealing a request of,	290
freedom from arrest,	259	production of documents in courts,	257
freedom of speech,	247	propriety and, breach of,	287
furnishing incorrect information regarding arrest,	264	prosecution of offenders,	277
handcuffing,	268	punishments for breach,	276
ill-treatment of members by Police/jail authorities,	265	referring question of, to Committee of Privileges,	300
immunity from legal process and arrest,	262	reflection on House/its members,	269
immunity from proceedings in courts,	247	casting of,	
imposition of fine,	277	reflection on President,	287
imprisonment,	276	reprimand,	276
imputing of motives,	268	right to attend session,	260
interception of members' mail,	282	right to control publication of proceedings,	250
intimation about arrest etc. of members,	262	right to exclude strangers,	250
intimidation of members,	276	right to regulate proceedings,	256
joint report,	294	rules of procedure reg.,	246
laying of distorted minutes of COPU,	285	speeches and writings reflecting on the House/members,	269
legal process,	303	statements made in writ petitions/affidavits and,	275
<i>mala fide</i> arrest,	263	statutory provisions reg.,	246
misleading statements,	280	Supreme Court and,	261, 303
misrepresentation of proceedings,	253	typical instances of,	285
nature of,	244	withholding communications from member in custody,	265
non-disclosure of information in the House,	285	<b>BREACH OF PRIVILEGES:</b>	
non-fulfillment of assurances,	284	cases not amounting to,	282
one House not to comment upon the proceedings of the other House,	299	civic body, by,	286
party matters,	283	complaint against members,	293
penal powers of House, reg.,	246, 277	members, by,	245
policy/important statements/announcements outside the House during session,	289	other House, by,	245
power of the House reg.,	276	<b>PRIVILEGES COMMITTEE:</b>	
premature publication of proceedings,	251	(see under Committees)	
preventing a member from attending the House,	264	<b>PROCEEDINGS:</b>	
preventive detention,	260	committees, reg.,	1029
		expunction and subsequent restoration of remarks, reg.,	1033
		expunction of words from,	1029
		expunged, publication of,	252
		misrepresentation of,	253
		premature publication of,	251

preparation of,	1027	<b>QUESTION (S):</b>	
regulation of,	256	absent members, of,	561
reporting of,	1027, 1029	admissibility of,	531
right to control, publication of,	250	advance publicity to answers,	578
telecasting of,	1063	allotment of days, for,	530
<b>PROCLAMATION(S):</b>		answers by Ministers to,	550
approval/continuance of,	779, 782, 789	Chairman's decision on admissibility of,	541
duration of,	787	clubbing of names of members, reg.,	545
effect of,	790	computerization and,	583
failure of constitutional machinery,	774, 780	conditions of admissibility,	568
due to,		consolidation of,	546
financial emergency, of,	774, 789	correction of answers to,	554
laying of, in the House,	780	disposal of, in some contingencies,	519
national emergency, of,	779	draw of lot reg.,	542
occasions of,	780	form of notice of,	526
Rajya Sabha, powers of,	15, 17	Half-an-hour discussion,	581
revocation of,	784, 787	identical, taking of,	547
<b>PROPRIETY, BREACH OF,</b>	287	limit on number of,	528
<b>PROROGATION:</b>		limit on supplementaries, to,	571
effect of, on bills etc.,	212-14	link-up between answers to and supplementaries,	585
procedure reg.,	212-13	list of,	542
<b>QUESTION HOUR:</b>		non-allotment of time for,	506
absence of questioner, during,	565	notice of,	523
coverage of questions during,	571	notice to Ministers,	527
dispensing of,	506	order and mode of calling and asking of,	546
early end of,	517	private members, to,	531
effect of cancellation of,	510	short notice,	578
extended session, during,	508	supplementary,	566, 570, 585
extension of,	515	supply of answers to,	549
language other than Hindi and English, use of, during,	577	text for giving notices of,	527
ministerial responsibility during,	553	time for,	504
notice of breach of privilege, reg.,	511	to be asked through the Chair,	336
point of order during,	518	transfer of,	559
shifting of,	510	types of,	527
<i>sub judice</i> matters,	538	uploading of answers to, on Rajya Sabha website,	584
suspension of,	518	withdrawal or postponement of,	557
transfer of, due to cancellation of a sitting,	510		
unsatisfactory reply,	552		

---

<b>QUORUM</b>		Hindi nomenclature of,	21, 1046
House, of,	377	live telecast of Rajya Sabha	1063
Committee, of,	916	proceedings,	
		need for,	8
<b>RAJYA SABHA:</b>		organization of,	1050
adjournment of,	209, 386, 391	Parliamentary Pay Committee, reg.,	1048
allocation of seats in,	22, 27	Pay and Accounts Office,	1062
changes in elected strength of,	11	Printing and Publications Service	1056
changing party position in,	358	in, staff, provision for,	
constitutional provisions reg.,	21	recruitment process,	1050
continuity and change in,	16	recruitment rules,	1046, 1049
discussion of general budget in,	187, 828	reservation for SC/ST in,	1050
Draft Constitution on,	4	RSTV,	1064
election of,	7, 16, 21, 24	various services in,	1050
evolution of,	1	<b>REFERENCES:</b>	
Finance Ministers from,	190	conclusion of a session, on,	493
financial powers of,	13	felicitations, appreciations and	480
galleries of,	412, 1034, 1036	greetings,	
Hindi nomenclature of,	12, 21	foreign delegations, to,	486
initial constitution,	23	obituary,	463
Lok Sabha, relation with,	18, 166	retiring/elected/nominated	493
membership	30	members reg.,	
nominated members of,	6, 21	Secretary-General, Rajya Sabha	485
political complexion of,	346	reg.,	
powers of,	1, 14	sense of relief or concern,	485
prorogation of,	212	solemn or significant occasions, on,	486
scrutiny of budget estimates of,	188	tragic happenings, to,	488
seating arrangement	411	tributes and homage,	479, 482
sessions of,	195-219	unopposed,	491
sittings of,	367, 391, 392	valedictory remarks,	493
special powers of,	17	<b>REPLY, RIGHT OF,</b>	983
strength of,	21	<b>RESOLUTIONS:</b>	
structure and composition of,	16, 21	amendments to,	766
summoning of,	365	approval of proclamation under	779
summons to members of,	365	article 352,	
<b>RAJYA SABHA SECRETARIAT:</b>		approval of proclamation under	780
budget of,	1065	article 356,	
Chairman, control and direction	97, 1047	approval of proclamation under	789
of,		article 360,	
		arrangement of business and,	436
		Chair, by,	492

creation of All India Services, reg.,	778	Members, travelling allowance, of,	75-76
disapproval of Ordinances, reg.,	774	Members, office expense allowances,	73
effect/force of,	790	Members, constituency allowance,	73
government,	445, 770	<b>SEATING ARRANGEMENT:</b>	
Leader of the House, by,	493	[see under Chamber, Rajya Sabha and allotment of seat(s)]	
legislation under article 249, reg.,	775	<b>SECOND CHAMBER:</b>	
meaning of,	761, 770, 772	Abbe Sieyes on,	12
Minister of External Affairs, by,	493	Advantages of,	14
Parliamentary Acts, under,	789	Dr. S. Radhakrishnan on,	13-14
Prime Minister, by,	492	early proposals reg.,	3-6
Private member's,	454, 761, 770	evolution of,	1
statutory,	772, 790	Gopalaswamy Ayyangar on,	3
types of,	446, 761	Henry Maine on,	12
<i>Government Resolutions:</i>		M. Ananthasayanam Ayyangar on,	6
approving international treaties, for,	771	need for a,	3, 14
approving policies of the government, for,	771	Union Constitution Committee on,	2
approving proclamation of emergency,	779	utility of,	13, 14
approving recommendations of the committees,	772	<b>SECRETARY-GENERAL:</b>	
<i>Private Members' Resolutions:</i>		functions of,	140
admissibility of,	762	list of,	145
allotment of time,	765	papers laid by,	438
debate on,	611	parliamentary committees and,	142
form of,	762	President's Address and,	225, 229
listing of,	764	role and status of,	140
notice and draw of lot, reg.,	761	Secretariat and,	143
<b>STATUTORY RESOLUTIONS:</b>		<b>SESSIONS:</b>	
(see under Resolutions)		adjournment <i>sine die</i> ,	209
<b>SALARIES, ALLOWANCES, ETC.:</b>		extension of,	209
Chairman, Rajya Sabha, of,	92	information to newly elected members,	204
Deputy Chairman, of,	102	President, summoning by,	196
Joint Committee on, of Members of Parliament,	945	prorogation of,	212
Leader of Opposition, of,	123	summons to members,	204, 200
Member, of,	73	<b>SHORT DURATION DISCUSSION:</b>	
Members, telephone facilities, of,	77	difference between no-day-yet-named motion, and,	816
Member, allowances during short interval,	75	exceeding time limit,	816
Member, air journey entitlement of,	75	observations by the committee reg.,	815
		procedure, reg.,	817
		significance of,	819
		subjects discussed under,	819

---

SINGLE TRANSFERABLE VOTE,	48	rules to be observed during,	330
		use of language in,	334
<b>SITTING(S):</b>			
adjournment of,	386	<b>STATEMENT BY MINISTERS:</b>	
adjournment <i>sine die</i> ,	391	bill replacing Ordinance, reg.,	1010
adjournment/suspension of,	382	calling attention, in response to,	440, 614, 1010
before scheduled time,	386	circulating copies of,	1005
beyond midnight,	389	clarifications on,	1006-8
cancellation of,	370	correction of inaccuracies in,	439
conclusion of,	385	implementation of	1011
first,	392	recommendations of DRSCs, reg.,	
fixation of,	365	on matters of public importance,	440
joint,	169	<b>STRANGERS:</b>	
lunch recess during,	381	admission of,	1034
mode of,	377	exclusion of,	250
non-fixation of,	365	<b>SUSPENSION:</b>	
observance of holidays,	367	of members,	316
occasions,	375	of rules,	1037
on Saturday,	366	of sittings,	382
playing of National Anthem and National Song,	390	<b>TENTH SCHEDULE:</b>	
provisional calendar of,	365	exceptions under,	38
quorum of,	377	grounds of defection under,	37
special,	375, 391	member expelled from his party,	352
time of commencement of,	373, 390	its effect under,	
<b>SPECIAL MENTION:</b>			
Chairman's discretion reg.,	653	membership of a party under,	348
entry in Bulletin Part-I reg.,	659	petitions, under,	40
follow-up action on,	660	powers of Chairman under,	38
genesis of,	650	provisions under,	37
mode of making of,	657	rules framed under,	40
number of, per sitting,	655	<b>UNPARLIAMENTARY EXPRESSIONS:</b>	
presence of Cabinet Minister during,	659	avoidance of,	334-36
procedure reg.,	650, 652	<b>VACATION OF SEATS:</b>	
recent developments	657	absence of, member,	69
time for making of,	656	absence, due to,	430
time limit on,	658	declaring election void,	67-68
<b>SPEECHES:</b>			
freedom of,	247	election to more than one House,	61-67
maiden	326, 1038	election to more than one seat,	63-64
order of,	983	Office of Profit,	60-61
right of reply,	983	resignation, due to,	71-73
		sitting Member of Rajya Sabha, by,	63
		Tenth Schedule, under,	61

---

<b>VALEDICTORY REMARKS,</b>	493	of nominations,	44, 46
<b>VICE-CHAIRMEN, PANEL OF,</b>	106	of questions,	557
		of strangers,	250
<b>VICE-PRESIDENT:</b>			
discharging the functions of President,	86	<b>WITNESS, MEMBERS AS:</b>	
election of,	88	before a committee,	302
election of, returning officer for,	88, 156	before courts,	261
<i>ex officio</i> Chairman,	86	<b>ZERO HOUR:</b>	
list of,	90	BAC, views of,	644
void, grounds for declaring election	91	current practice reg.,	646
of,		definition of,	639
		follow-up action reg.,	648
<b>VOTE-ON-ACCOUNT,</b>	13, 831	Government not bound to reply	
<b>WHIP,</b>	137	during,	647
		origin of,	640
<b>WITHDRAWAL:</b>		<i>raison d'etre</i> of,	641
of amendments,	700	recent development,	647
of bills,	444, 703	regulation of,	642
of members from House,	315	Rules Committee on,	645
of motions,	801	timing and duration of,	640