

## CHAPTER 2

# The Union Parliament—II

### Syllabus

#### The Union Legislature (contd.)

**Rajya Sabha** — composition, qualifications for membership, election, term, Presiding Officer.

**Powers and Functions of Union Parliament** —(legislative, financial, judicial, electoral, amendment of the Constitution, control over executive). Exclusive powers of the two Houses.

### RAJYA SABHA

The Upper House or the Council of States is known as the 'Rajya Sabha'. It represents the federation of States of the Indian Union.

#### Composition

The maximum strength of the Rajya Sabha can be 250 members. The members fall into two categories—elected and nominated.

**Elected Members:** 238 members are elected by the States in the Union. The allocation of seats among the States is not equal, as this would be undemocratic. Seats are allocated to the States and the Union Territories on the basis of their population. Thus, Uttar Pradesh is represented in the Rajya Sabha by 31 members, Punjab sends seven members and Goa, Manipur, Meghalaya and Mizoram one each. The Union Territory of Delhi sends three members, whereas Puducherry sends one member and Jammu and Kashmir sends four members.

**Nominated Members:** They are nominated by the President from among persons having special knowledge or practical experience in matters such as: literature, science, art and social service. The nominated members are 12 in number.

The principle of nomination is aimed at having distinguished persons in the Upper Chamber. In the past, many eminent persons have been nominated by the President to the Rajya Sabha like Raja Ramanna (nuclear scientist), Mrinal Sen (film producer), Hema Malini (actress), Kartar Singh Duggal (writer) and Nirmala Deshpande (social worker), etc.

#### Qualifications for Membership

Qualifications and disqualification for membership of the Rajya Sabha are the same as those for membership of the Lok Sabha except that of the age criteria. *The minimum age for contesting election for the Rajya Sabha is 30 years.* The qualifications for membership of Rajya Sabha are given below:

1. He/She should be an Indian citizen.
2. He/She should be at least 30 years of age.
3. He/She should have his name in the electoral rolls in some part of the country.
4. He/She should not be an insolvent, i.e., he/she should not be in debt and should have the ability to meet his/her financial commitments.
5. He/She should not hold any office of profit under the government.
6. He/She should not be a proclaimed criminal.
7. He/She should not be of unsound mind.

#### Disqualification of Membership

Same conditions as for Lok Sabha.

#### Election

The representatives of each State in the Rajya

Sabha are elected by the elected members of the Legislative Assembly of each State in accordance with the system of proportional representation by means of a single transferable vote. The representatives of the Union Territories are chosen in such a manner as Parliament may prescribe. The three representatives from Delhi are elected by the members of the Legislative Assembly.

#### Term

The Rajya Sabha is a permanent House. It cannot be dissolved like the Lok Sabha. Each member of the Rajya Sabha is elected for a period of six years. One-third of the total members of the House retire after every two years. Members can be re-elected if they so desire and if their electors support them.

#### Presiding Officers

1. The Vice-President of India is the *ex-officio* Chairman of the Rajya Sabha. He/She presides over its meetings. He/She cannot vote on any issue discussed in the House as he/she is not its member. However, in case of a tie, he/she exercises his/her casting vote.
2. The Rajya Sabha elects a *Deputy Chairman* from among its members. In the absence of the Chairman, he/she performs all functions and duties of the Chairman.

### POWERS AND FUNCTIONS OF THE UNION PARLIAMENT

The Parliament of India comprises the President, the Lok Sabha and the Rajya Sabha. The two houses of Parliament are not competing centres of power but are co-partners in the functioning of government. They enjoy equal power and status in all spheres except in financial matters and in terms of the responsibility of the Council of Ministers, which are exclusively in the domain of the Lok Sabha.

Rajya Sabha has equal powers with Lok Sabha in important matters like the impeachment of the President, removal of the Vice-President, Constitutional amendments and removal of the Judges of the Supreme Court and the High Courts. Every Presidential Ordinance, proclamation of Emergency and proclamation of the failure of constitutional machinery in a State must be placed before both Houses of



■ Rajya Sabha Chamber

Parliament. In case of disagreement between the two Houses, a joint sitting of the two Houses is convened, where matters are decided by majority vote.

#### Legislative Powers

All Bills, other than the Money Bills, can originate in any House of the Parliament. No Bill can become a law unless it is passed by both the Houses. If there is disagreement, the President may summon both the Houses of Parliament in a joint meeting. At the joint-sitting, issues are decided by a majority of the members of both the Houses present and voting.

The Parliament is competent to make laws on:

**1. Matters in the Union List:** The Parliament has exclusive powers to make laws on all the subjects mentioned in the Union List, including important subjects like Defence, Banking, Communications, Foreign Affairs, etc.

**2. Matters in the Concurrent List:** Along with the State Legislative Assemblies, the Parliament can make laws on the subjects listed in the Concurrent List, for example education, forests, adoption, succession, trade union. If there is a conflict between the Union Parliament and the State Legislature on any law in this list, the Union Law will prevail.

**3. Residuary Powers:** The Parliament possesses residuary powers. It means that it can make laws with respect to all those matters which are not mentioned in any of the three Lists — the Union List, the State List and the Concurrent List.

**4. Matters in the State List:** The State List comprises matters related to agriculture, animal

husbandry, public health, local government police etc. The Parliament can legislate even on subjects included in the State List:

- During the Proclamation of an Emergency.
- When the Rajya Sabha passes a resolution by a two-thirds majority that a subject in the State List has assumed national importance.
- When two or more States are of the opinion that the Parliament should legislate on a subject given in the State List, the Parliament may make an Act on that subject but that would be applicable only to the consenting States.

**5. Ordinances:** The President is empowered to promulgate an Ordinance at a time when the Parliament is not in session. It has the same effect as an Act. All Ordinances must be put up before both the Houses for their approval. Ordinances cease to operate after six weeks from the re-assembly of Parliament, unless they are approved by the Houses.

**6. Powers during Emergency:** When there is a total breakdown of the Constitutional machinery in a State, a state of Emergency is declared in the State. During the period of Emergency, the Parliament becomes the legislature in the State concerned and assumes all powers, including the financial powers of passing the State budget.

### Financial Powers

A Money Bill can originate in the Lok Sabha only. After a Money Bill is passed by the Lok Sabha, it is sent to the Rajya Sabha for its recommendations, which it must make within 14 days. In financial matters the Rajya Sabha has only an advisory role.

**1. The Budget:** The Parliament passes the Union Budget containing the estimates of receipts and expenditure of the Government for a financial year. The Railway Budget was integrated with the Union Budget from 2017-18.

**2. Supplementary Grants:** If the amount authorised for the current financial year is not sufficient, the Government may make a fresh demand known as the 'Supplementary Grant.'

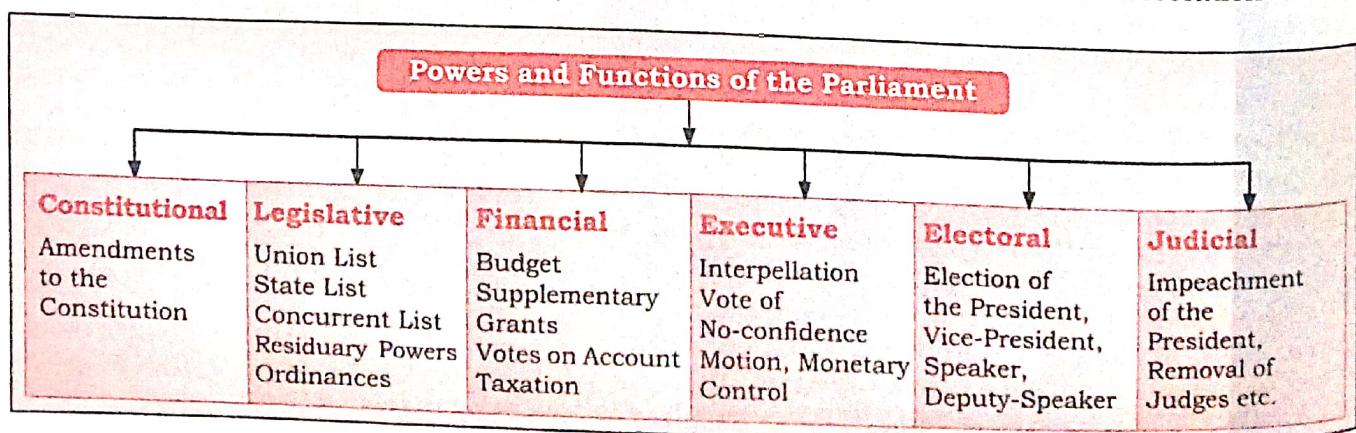
**3. Vote on Account:** If the Union Budget is not passed before the beginning of the new financial year, i.e., April 1, there would be no money for the Executive to spend. There is, therefore, a device known as 'Vote on Account' which authorises the Executive to draw funds from the Consolidated Fund until the Budget is passed by the Parliament.

**4. Salaries:** The salaries and allowances of MPs and Ministers are determined by Parliament.

**5. Permission for Taxes:** No tax can be imposed or money spent by the government without the approval of the Parliament. In matters of finance the Lok Sabha enjoys more powers than the Rajya Sabha. Money Bills can be introduced only in the Lok Sabha. Once the Money Bills go to the Rajya Sabha they have to be sent back to the Lok Sabha within 14 days. The Lok Sabha may accept or reject the recommendations of the Rajya Sabha.

### Judicial Powers

**1. Impeachment of the President:** The Parliament performs some judicial functions. It has the right to remove the President from office through a procedure known as 'impeachment'. In case of violation of the Constitution or grave misconduct, either House may frame charges against the President. If a resolution to this



effect is passed by a two-third majority of total membership of the House and by the majority of members present and voting, the other House investigates the charges. If the other House too finds the President guilty, he may be impeached and removed from office.

**2. Removal of Judges, etc:** The Parliament can remove the Judges of the Supreme Court and the High Courts, the Chief Election Commissioner and the Comptroller and Auditor General of India, if they are found guilty of violating provisions of the Constitution.

**3. Punishment:** The Parliament can punish a person for obstructing the work of Parliament or showing disrespect to the House. In 1961, the Parliament reprimanded the Editor of the *Blitz* for ridiculing a Member of Parliament.

### Electoral Functions

The Indian Parliament has to perform certain electoral duties as well, such as:

1. The Parliament of India along with the State Legislatures elects the President of India.
2. The Vice-President of India is elected by both the Houses of the Parliament.
3. The Lok Sabha elects its own Speaker and Deputy Speaker from amongst its own members while the Rajya Sabha elects its Deputy Chairman.

### Amendment of the Constitution

Both Houses of Parliament can amend the Constitution. The amendment must be passed by each House by a majority of total membership and by a two-third majority of members present and voting. Otherwise the amendment bill cannot be passed. In some cases the amendment requires the ratification or approval of half of the Legislative Assemblies of States.

### Control over the Executive

The Council of Ministers is collectively responsible to the Lok Sabha. The Ministers remain in office as long as they enjoy the confidence of a majority of members in the Lok Sabha. Parliament exercises control over the Executive in the following manner:

**1. Interpellation:** The Question Hour, Calling Attention Notices and Half-an-Hour Discussion are some of the devices to seek information

from the government about its policies and performance. Of these the most important is the Question Hour the first hour of a sitting in both Houses allotted for asking and answering of questions. It is a valuable device to keep a check on the government.

**2. Motions of Censure:** (i) Vote of No-Confidence; (ii) Adjournment Motion; and (iii) The Parliament exercises its control over the Government by other motions which, if passed, amount to no-confidence. They include: motions of censure against a minister, rejection of a Government Bill, passing of a private member's Bill against the wishes of the Government, etc.

**3. Monetary Controls:** During the budget session a cut motion may be moved. Parliamentary Committee on Public Accounts ensures that public money is spent in accordance with Parliament's decision. It examines reports of the Comptroller and Auditor-General of India.

### Other Powers

1. The Parliament may alter the name or boundary of the State if needed, it can also form a new State by merging the territories of existing States or by separating a part of a territory from a State.
2. It makes laws regarding the composition, jurisdiction and powers of the Supreme Court.
3. The Parliament may establish a common High Court, for two or more States.

### Exclusive Powers of the Lok Sabha

The Lok Sabha has special powers which make it more powerful than the Rajya Sabha. These special powers are:

1. Motions of No-confidence against the government can only be introduced and passed in the Lok Sabha. If passed by a majority vote, the Prime Minister and the Council of Ministers resign collectively. The Rajya Sabha has no power over such a motion, and hence no real power over the executive.
2. A Money Bill can only be introduced in the Lok Sabha, and upon being passed, is sent to the Rajya Sabha, where it can be deliberated on for up to 14 days.

- In case of a deadlock between the two Houses over a non-financial (ordinary) Bill, the will of the Lok Sabha normally prevails, as its strength is more than double that of the Rajya Sabha.

### Exclusive Powers of the Rajya Sabha

- The Rajya Sabha has some exclusive powers. Though the Parliament cannot, in normal times, make laws on a State-subject, the Constitution states that under Article 249, the Rajya Sabha may, by a resolution adopted by two-thirds majority, empower the Parliament should make laws with respect to a matter in the State List. The Lok Sabha has no authority to assert itself in such matters.
- The other special power enjoyed by the Rajya Sabha is that it may declare that the creation of new All-India Services be made in the national interest. Thereupon, Parliament may create new services.
- If the Lok Sabha is dissolved before or after the declaration of a National Emergency, the Rajya Sabha becomes the sole *de facto* and *de jure* Parliament, i.e., it takes over the functions of the Parliament. It cannot be dissolved. This is a limitation on the Lok Sabha.

### RELATIONSHIP BETWEEN THE TWO HOUSES OF THE PARLIAMENT

The Parliament consists of two Houses. Participation and collaboration of both the Houses are needed for all legislative functions. However, the Constitution recognises the superiority of the Lok Sabha over the Rajya Sabha.

The Lok Sabha represents the people directly as its members are elected by the people. On the other hand, the Rajya Sabha represents the States of the Indian Union and its members are elected indirectly by the members of the State Legislative Assemblies. They never have to go to the people. Because of this, the Lok Sabha is given an upper hand in many matters concerning the Parliament. We shall discuss their relationship here below:

### Difference over the Legislative Matters

Legislative functions belong to two categories—  
(a) Ordinary Bills (b) Money Bills.

**1. Ordinary Bills:** Ordinary Bills may originate in either House. If there is disagreement between the two Houses, the bill is referred to a joint-sitting of both the Houses. In such cases both the Houses are placed on an equal footing. However, the Rajya Sabha is in a weaker position, since the total membership of Rajya Sabha is less than even half of the total strength of the Lok Sabha. Besides, the joint session is presided over by the Speaker of the Lok Sabha.

**2. Money Bills:** In case of Money Bills, the Rajya Sabha has virtually no powers. It cannot reject a Money Bill nor amend it by virtue of its own powers. It must, within the stipulated period of 14 days, return the Bill to the Lok Sabha, which may thereupon either accept or reject all or any of the recommendations of the Rajya Sabha.

### Control over the Executive

Members of both the Houses can put questions to ministers about the work of their departments. But the Lok Sabha is more powerful than the Rajya Sabha. The Council of Ministers is responsible only to the Lok Sabha. Rajya Sabha cannot pass a Motion expressing No-Confidence in the Council of Ministers. Adjournment Motion, indicating a strong disapproval of the policy of Government is moved only in Lok Sabha.

### Election of the President and the Vice-President

Every elected member of the Parliament stands on equal footing in the election of the President or the Vice-President of India. However, the Lok Sabha has a greater say on such matters because of its strength in numbers.

### Impeachment

In matters of impeachment of the President of India or the Chief Justice or a Judge of the Supreme Court or of a High Court, both Houses have absolutely equal powers. Impeachment can be initiated in either House and the other House has an equal say in the judgement.

### Emergency Provision

In case of proclamation of a National Emergency and if the Lok Sabha is dissolved, it is the Rajya Sabha which shoulders all the responsibilities of the Union Legislature.

## The Rajya Sabha

- The Rajya Sabha**

  - **Composition:** not more than 250 members, (238 elected and 12 nominated by the President)
  - **Qualifications for membership:** (i) citizen of India; (ii) not less than 30 years of age; (iii) not holding any office of profit under the government; and (iv) ordinarily a resident of the State from where he/she is contesting.
  - **Election:** elected by the State Assemblies with the system of proportional representation by means of a single transferable vote.
  - **Term:** six years, (one-third of its members retire after every second year) — a permanent body.
  - **Presiding Officers:** (i) The Vice-President of India, the ex-officio chairman; (ii) A Deputy Chairman, elected from among its members.
  - **Disqualification of membership:** Same as for Lok Sabha.
  - **Special Powers of Lok Sabha:** (i) Motions of No-confidence against the government can only be introduced and passed in the Lok Sabha; (ii) Money Bills can be introduced only in the Lok Sabha and the Rajya Sabha cannot reject or amend it. (iii) In case of a deadlock between the two Houses, the will of the Lok Sabha prevails due to its higher numerical strength.
  - **Special Powers of Rajya Sabha:** (i) can declare any Subject in the State List as a subject of national interest empowering the Parliament to legislate on it; (ii) power to set up a new All-India Service; and (iii) as a Permanent house, it cannot be dissolved.

**Powers and Functions of Parliament** (i) enacts laws for the good governance of the country; (ii) can pass a vote of No-confidence and thus dismiss the government in power; (iii) controls the finances of the Union; (iv) keep a check on the executive by asking questions and other censure motions. (v) exercise monetary control.

## **EXERCISES**

## I. Multiple-Choice Questions

**6.** Read the excerpt given below:

*Amid vociferous protests by the Opposition members, the Union government introduced a contentious Bill in the Lok Sabha to replace the Ordinance over control of Delhi services.*

— The Hindu, August 2, 2023

- The Government introduced the Ordinance in the Lok Sabha because in order to become a law every ordinance
- (a) needs the approval of the Lok Sabha only.
  - (b) needs the approval of the Opposition.
  - (c) needs to be approved by both Houses of the Parliament.
  - (d) does not need the approval of the Rajya Sabha.
- 7.** What happens in the case of conflict between laws on subjects in the Concurrent List?
- (a) The State law prevails
  - (b) The Union law prevails
  - (c) A Bill is introduced in Parliament.
  - (d) The President decides which law will prevail.
- 8.** What is the tenure of the elected members of the Rajya Sabha?
- (a) 2 years
  - (b) 4 Years
  - (c) 6 Years
  - (d) 8 Years
- 9.** Which of the following statements about the Rajya Sabha are correct?
- P: Each member of the Rajya Sabha is elected for a period of five years.  
Q: The minimum age for contesting election for the Rajya Sabha is 30 years.  
R: One-half of the total members of the Rajya Sabha retire after every two years.  
S: The Rajya Sabha cannot be dissolved.
- (a) P and Q
  - (b) R and S
  - (c) P and R
  - (d) Q and S
- 10.** How are the Rajya Sabha members elected?
- (a) By the elected members of the State Legislative Assembly by means of proportional representation.
  - (b) By the adult citizens of India by a single transferable vote.
  - (c) By the elected members of the Lok Sabha by means of proportional representation.
  - (d) By members of an electoral college by means of proportional representation.
- 11.** Complete the following analogy with respect to members of the Rajya Sabha.  
Elected : 238 :: Nominated : ....?....
- (a) 20
  - (b) 15
  - (c) 12
  - (d) 10
- 12.** Which of the following statements about the powers and functions of the Lok Sabha and the Rajya Sabha are correct?
- P: No-confidence motion against the government can only be introduced in the Rajya Sabha.  
Q: The Lok Sabha can set up a New All-India Service.  
R: The Rajya Sabha has virtually no powers in case of Money Bills.  
S: In case of a deadlock between the two Houses, the will of the Lok Sabha prevails.
- (a) R and S
  - (b) P and S
  - (c) S and Q
  - (d) P and Q

Lok Sabha	Adult citizens of India
Rajya Sabha	?



## **II. Short Answer Questions**

1. State two occasions on which the President of India addresses a joint session of Parliament.
  2. Who presides over the Rajya Sabha? Who elects the Deputy Chairman of the Rajya Sabha?
  3. Name the body which elects the Rajya Sabha Members. Mention any two matters where the Rajya Sabha enjoys equal powers with the Lok Sabha.
  4. What do we mean when we say that the Rajya Sabha is a permanent body? What is the term of office of a Rajya Sabha member?
  5. Who is the ex-officio chairperson of the Rajya Sabha? Mention one of his/her duties other than being the chairperson of the Upper House.
  6. Name the lists which distribute the Subjects of legislation between the Union and the States. Mention any one circumstance when the Parliament can make laws on a state subject.
  7. Mention any two circumstances under which the seat of a member of the Parliament becomes vacant.
  8. Mention any one provision of the Constitution which clearly establishes the supremacy of the Lok Sabha with regard to money bills. What happens when a Money Bill is not returned by the Rajya Sabha in 14 days?

9. Which bodies have the right to legislate on subjects in the Concurrent List? What happens in the case of conflict between such laws?
10. How does the legislature control the executive?

### III. Structured Questions

1. With reference to the powers of the Union Parliament, state the following:
  - (a) Three of its Legislative Powers.
  - (b) Three of its Financial Powers.
  - (c) Four of its Administrative or Executive Powers.
2. With reference to the powers of the Rajya Sabha, state the following:
  - (a) Any two of its legislative and one financial power.
  - (b) Any three of its administrative powers.
  - (c) (i) Any two of its exclusive (special) powers; (ii) Any two electoral functions.
3. With reference to the differences in the powers of two Houses answer the following questions:
  - (a) Compare and contrast the elections to both the Houses.
  - (b) What is the procedure that is followed if there is a deadlock between the two Houses of the Parliament on a non-money bill?
  - (c) What is the difference between a money bill and a non-money bill?
4. This picture is a symbol of the federal spirit of the Indian Constitution. In this context, answer the following questions:
  - (a) Why is the Rajya Sabha called the 'Council of States'?
  - (b) How does the election of Rajya Sabha members ensure that the House serves as a true representative of the States?
  - (c) How does it effectively represents the interests of the States?



### IV. Higher Order Thinking Skills (HOTS)

1. The members of the Rajya Sabha are not directly elected by the people. Many times political parties send their loyalists or those could not win a popular election. Do you think it weakens the democratic principle of Indian Parliament? Give your views.
2. The nominated members of Rajya Sabha are supposed to provide the expertise that elected politicians may not possess. But many nominated members remain inactive and fail to perform their assigned duties. Do you agree with this view? What solutions do you suggest?
3. Do you think that the two Houses of Parliament are not competing centres of power but are co-partners in the functioning of government? Give your views.
4. What is the role of Opposition Parties in a parliamentary democracy? What challenges do Opposition Parties face in presenting a united front against a strong majority government?