

**Question 21. Rather than effective control of the executive, the Lok Sabha is a platform for the expression of popular sentiments and people's expectations. Do you agree? Give reasons. (To be discussed in Class)**



**Sessions of Parliament:** President can summon and prorogue the sessions of parliament and dissolve the Lok Sabha as and when required 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.

**Article 86. Right of President to address and send messages to Houses.—**

- (1) The President **may address either House of Parliament or both Houses assembled together**, and for that purpose require the attendance of members.
- (2) 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 shall with all convenient despatch consider any matter required by the message to be taken into consideration.

**Special Address by the president:** At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the **President shall** address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

Ministers and attorney general **has the right to speak and participate in any house** of parliament, joint sitting, and their committees except right to vote. Ministers can only vote in house where he is member.

Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule. In practice MPs takes oaths before **Protem Speaker** in Lok Sabha.

**Chairman of Rajya Sabha:**

- The Vice- President of India shall be ex officio Chairman of the Council of States.
- The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman
- A member holding office as Deputy Chairman of the Council of States—
- shall vacate his office if he ceases to be a member of the Council;
- may at any time, **by writing under his hand addressed to the Chairman, resign** his office; and
- may be removed from his office by a resolution of the Council passed by a majority of all the **then members of the Council** (Effective Majority):
- At least 14 days prior notice is required before moving such resolution against him.
- While the motion of their removal is pending, neither the chairman nor the deputy chairman shall preside over the sitting of the house. **But the chairman is not entitled to vote in affairs of the house.**

**Speaker of Lok Sabha:**

- The House of the People shall, **as soon as may be**, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House **shall choose another member to be Speaker or Deputy Speaker, as the case may be.**

### Functions:

- The Speaker is the head of the Lok Sabha, and its representative.
- He is the guardian of powers and privileges of the members, the House as a whole and its committees.
- **maintains order and decorum** in the House for conducting its business and regulating its proceedings.
- adjourns the House or suspends the **meeting in absence of a quorum**.
- does not vote in the first instance. But he **can exercise a casting vote** in the case of a tie.
- He **presides over a joint sitting of the two Houses** of Parliament.
- **can allow a 'secret' sitting of the House** at the request of the Leader of the House. When the House sits in secret, no stranger can be present in the chamber, lobby, or galleries except with the permission of the Speaker.
- **decides whether a bill is a money bill or not** and his decision on this question is final.
- decides the questions of disqualification of a member of the Lok Sabha, arising on the ground of defection under the provisions of the Tenth Schedule.
- **acts as the ex-officio chairman of the Indian Parliamentary Group** which is a link between the Parliament of India and the various parliaments of the world.
- appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their functioning.
- He is the chairman of the Business Advisory Committee, the Rules Committee, and the General-Purpose Committee.

### Provisions to ensure the independence and impartiality of the office of the Speaker:

- He is provided with a security of tenure. He can be removed only by a resolution passed by the Lok Sabha by a majority of all the then members of the House [effective majority]
- This motion of removal can be considered and discussed only when it has the support of at least 50 members.
- His salaries and allowances are fixed by Parliament. They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.
- [Expenses charged upon CFI] --- [Expenses made from CFI]
- His powers of regulating procedure or conducting business or maintaining order in the House are not subject to the.

### Removal of Speaker: (Mentioned in details in the rules of procedure)

1. Member wishing to give notice of a resolution, for the removal of the Speaker or the Deputy Speaker shall do so in writing to the Secretary- General. At least **14 Days prior notice** is mandatory constitutional requirement before bringing such motion.
2. In order that such a resolution may be admissible, it shall satisfy the following conditions, namely:—
  - (i) it shall be specific with respect to charges;
  - (ii) it shall be clearly and precisely expressed; and
  - (iii) it shall not contain arguments, inferences, ironical expressions, imputations or defamatory statements.

3. In order to get the leave of house, the member raising such motion needs support of at least 50 members of the house.
4. Speaker/Deputy Speaker/Presiding officer shall grant leave (permission to discuss on resolution) and on the fixed day every member shall be given **not more than 15 minutes time for speech** (in exceptional circumstances can be increased).
5. Resolution needs to be passed by the majority of then members of the house (effective Majority). {Mentioned in Constitution Article 94}

**Other Provisions as mentioned in the Constitution with regards to Vacancy, Resignation, Absence:**

A member holding office as Speaker or Deputy Speaker of the House of the People

- a. shall vacate his office if **he ceases to be a member of the House of the People**;
  - b. may at any time, by writing under his hand addressed, if such member is the **Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker**, resign his office; and
- Whenever the House of the People is dissolved, the **Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.**
  - If the office of Deputy Speaker is also **vacant**, duties shall be performed by such **member of the House of the People as the President may appoint for the purpose.**
  - **During the absence** of the Speaker from any sitting of the House of the People the Deputy Speaker or, if **he is also absent, such person as may be determined by the rules of procedure of the House**, or, if no such person is present, such other person **as may be determined by the House**, shall act as Speaker.
  - While the motion of their removal is pending, neither the speaker nor the deputy speaker shall preside over the sitting of the house. **They have the right to vote on any matters in first instance** and not in case of ties of votes (while removal is undergoing).
  - It was decided by the supreme court in the **Nabam Rabia Case (2016)** which now has been sent for the review by a seven judge constitutional bench.

**In Nabam Rebia & Bamang Felix v. Deputy Speaker, Arunachal Legislative Assembly (2016), the Supreme Court had ruled that it would be “constitutionally impermissible for a Speaker of the House to adjudicate upon disqualification petitions under the anti-defection law as per Tenth Schedule while a motion of resolution for his/her own removal from Office of Speaker is pending”.**

**Question 22. ‘Once a Speaker, Always a Speaker’! Do you think this practice should be adopted to impart objectivity to the office of the Speaker of Lok Sabha? What could be its implications for the robust functioning of parliamentary business in India? (To be discussed in class)**



## Voting in Houses of Parliament:

**General Rule:** all questions at any sitting of either House or joint sitting of the Houses shall be determined by a **majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker.**

- Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and **exercise a casting vote in the case of an equality of votes.**
- the quorum to constitute a meeting of either House of Parliament shall be **one-tenth of the total number of members of the House.** 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.

**Leader of the House:** Under the Rules of Lok Sabha, the **‘Leader of the House’ means the prime minister, if he is a member of the Lok Sabha,** or a minister who is a member of the Lok Sabha and is nominated by the prime minister to function as the Leader of the House.

There is also a ‘Leader of the House’ in the Rajya Sabha. He is a minister and a member of the Rajya Sabha and is nominated by the prime minister to function as such.

**Leader of Opposition:** The leader of the largest Opposition **party having not less than one-tenth seats of the total strength of the House** is recognized as the leader of the Opposition in that House.

- His main functions are to provide a constructive criticism of the policies of the government and to provide an alternative government.
- **Accorded statutory recognition in 1977.**
- They are also entitled to the salary, allowances and other facilities equivalent to that of a cabinet minister.
- **It was in 1969 that an official leader of the opposition was recognised for the first time.**
- The same functionary in USA is known as the **‘minority leader.**

## Sessions of Parliament

- President can summon the session time to time upon advice of PM.
- **the maximum gap between two sessions of Parliament cannot be more than six months.**
- Usually three sessions in a year, viz,
  1. the Budget Session (February to May);
  2. the Monsoon Session (July to September); and
  3. the Winter Session (November to December).



### **Some General Provisions given in Rules of Procedure and Conduct of Business in Lok Sabha:**

1. **Leader of House has been defined under this rule** as ““Leader of the House” means the Prime Minister, if Prime Minister is a member of the House, or a Minister who is a member of the House and is nominated by the Prime Minister to function as the Leader of the House.
2. **Power to summon the sessions lies with president**, but the **Secretary-General shall issue a summons** to each member specifying the date and place for a session of the House.
3. The members shall sit in **such order as the Speaker may determine**.
4. The election of a **Speaker shall be held on such date as the President may fix, and the Secretary-General shall send to every member notice of this date**.
5. The election of a Deputy Speaker shall be held on such date as the Speaker may fix, and the Secretary-General shall send to every member notice of this date.
6. At the commencement of the House or from time to time the Speaker shall **nominate from amongst the members a panel of not more than** ten Chairpersons, anyone of whom may preside over the House in the **absence of the Speaker and the Deputy Speaker** when so requested by the Speaker or, in the absence of the Speaker, by the Deputy Speaker.
7. Unless the Speaker otherwise directs, sitting of the House on any day shall ordinarily commence at **11.00 hours and conclude at 18.00 hours** with a lunch break for one hour which may ordinarily be from 13.00 hours to 14.00 hours.

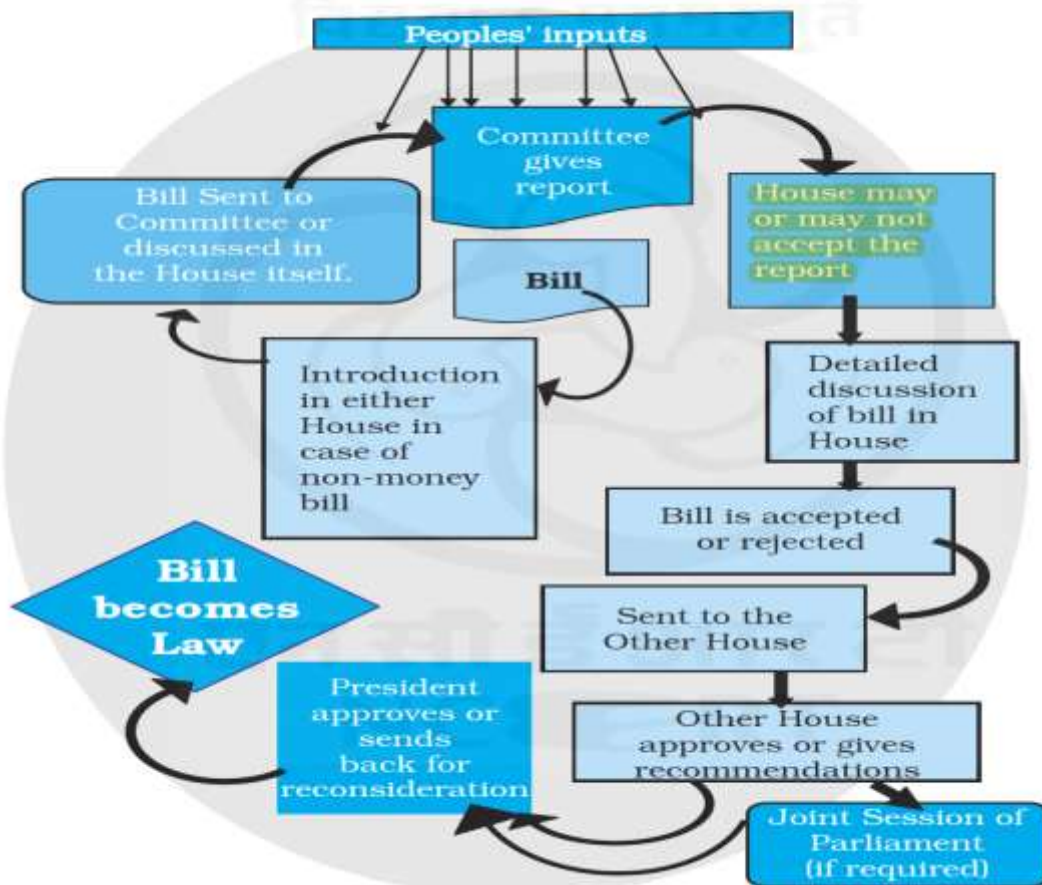
### **Motion of Thanks on Address Made by the President:**

- Speaker in consultation with the leader of house in Lok Sabha allots a day or days for the discussion on presidential address via a motion of thanks.
- Even Amendments may be moved to such Motion of Thanks.
- There is no limitation that on a day fixed for discussion on motion of thanks other business of the house can't happen. 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.
- The Speaker may allot time for the discussion of the matters referred to in the President's Address under article 86(1) of the Constitution.

### Questions Asked in Lok Sabha:

**Question Hour:** the first hour of every sitting shall be available for the asking and answering of questions.

1. At least 15 days' notice shall be given before asking the question.
2. **Starred Question:** member who desires an oral answer to one's question shall distinguish it by an asterisk.
3. **Unstarred Questions:** Need not to be answered orally shall be placed among list of questions to be answered in written.
4. **A maximum of 20 starred questions can be asked on one day and not more than 1 each starred questions shall be asked by one member.**
5. In case of **unstarred** each member is given **five questions for the day** (if he has already asked or scheduled to ask any starred question on same day, then four) **and total maximum of 230 questions for a day (In aggregate).**
6. If any member has given notice for more than one starred question to be asked in single day, he should indicate preference if not any one question can be preferred.
7. Time may be allotted ministry wise by the speaker and on the given day all starred questions concerning that ministry can be put up.
8. **If anyone's questions could not be answered orally, the written answer is tabled before the house after the end of the question hour on that day.**
9. **A question may be addressed to a private member** provided 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.

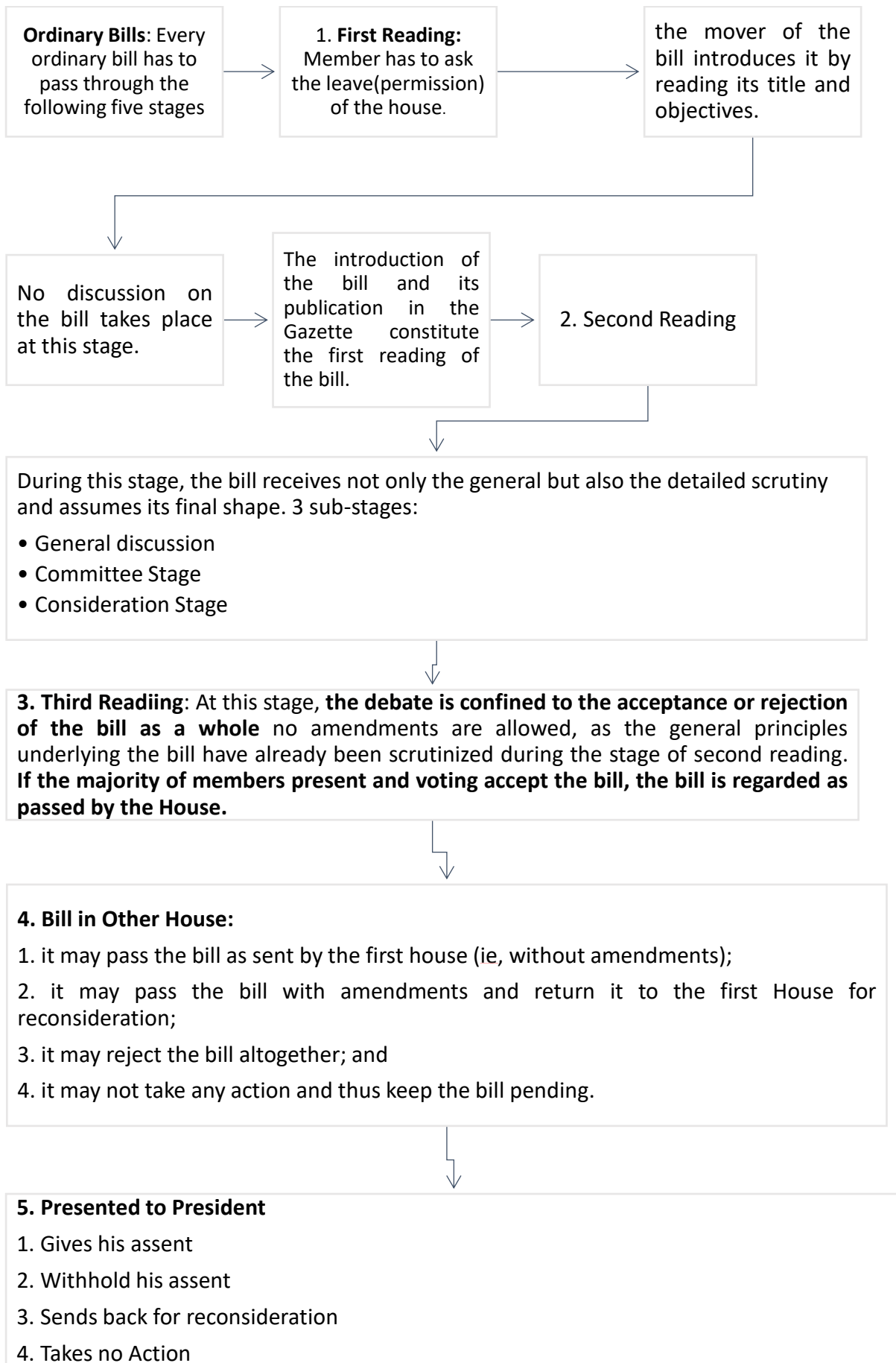


**{Article 110}** A Bill shall be deemed to be a Money Bill if it **contains only provisions dealing with all or any of the following matters, namely:—**

- (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).

A Bill shall not be 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**.

If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.



Kinds of Bills		Prior Recmd of President	Where it can be introduced	Role of Rajya Sabha
ordinary bill		does not required	either houses	almost equal power.
under article 3, change territory		required	either house	almost equal power
money bill article 110		required	Lok sabha. only	14 days limit as for suggesting changes
financial bill 1		required	only Lok Shabha.	14 days limit as for suggesting changes
financial bill 2		prior recommendation of president	-----same as ordinary bill-----	
constitutional Amendment bill		not required.	either houses.	exactly equal to Lok Sabha.

Majority Required	Provision of Joint Sitting	Veto Powers of President	
simple majority	allowed	Absolute Veto – Withholding of assent to the Bill Qualified Veto – Which can be overridden by the legislature with a higher majority. Suspensive Veto – Which can be overridden by the legislature with an ordinary majority. Pocket Veto – Taking no action on the Bill passed by the legislature.	passed by the legislature.
simple majority	allowed	same as above.	
simple majority	not required.	absolute veto.	
	simple like money bill		
	simple like ordinary bill		
mention in Article 368	not allowed	no veto power.	

**Supplementary Question:** When a question is listed for oral answer or any other member, when the member may ask a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given.

**Short Notice Question:** Question relating to a matter of public importance may be asked with notice shorter than ten **clear days** (Excluding origin and last days).

**Half an hour discussion:**

- The Speaker may allot half an hour on three sittings in a week, for raising discussion on a matter of sufficient public importance which has been the subject of a recent question, oral or written.
- Three days advance notice shall be given by the member before raising the issue.
- If more than two notices have been received and admitted by the Speaker, the Secretary-General shall hold a ballot with a view to draw two notices.

**Adjournment Motion:**

- motion for an adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the Speaker.
- Restrictions on moving adjournment motion:
  - not more than one such motion shall be made at the same sitting.
  - not more than one matter shall be discussed on the same motion;
  - the motion shall be restricted to a specific matter of recent occurrence involving responsibility of the Government of India];
  - the motion shall not raise a question of privilege;
  - the motion shall not revive discussion on matter which has been discussed in the same session;

a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of enquiry appointed to enquire into, or investigate **shall ordinarily not be permitted to be moved under adjournment motion.**

**Process: Member** seeking adjournment shall rise and seek the leave of the house. If there is objection from other member, speaker shall ask member who are in support of granting leave to present adjournment motion shall rise in place and **if at least 50 members are in support then adjournment motion can be allowed.**

**Calling the attention:**

- A member may, with the **previous permission of the Speaker**, 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: Provided that 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 by the minister but the member who called for it may ask a clarificatory question and the Minister shall reply at the end to all such questions
- 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 Speaker, more urgent and important.

**No Confidence Motion:**

- If the Speaker is of opinion that the motion is in order
- Can ask for members in support of leave being granted and if at least 50 members are in support of leave then
- Speaker can fix a day for discussion (not later than 10 days from leave being granted)
- He can also fix time limit for speeches

## Budget in Parliament:

### 1. Presentation of Budget:

- a. The Annual Financial Statement or the Statement of the Estimated Receipts and Expenditure of the Government of India.
- b. It is a constitutional requirement under Article 112.

The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the **estimated receipts and expenditure of the Government of India for that year**, referred to as the "annual financial statement".

It shall show separately:

Expenditures made from Consolidated fund of India.

- Expenditure charged on consolidated fund of India:
- the emoluments and allowances of the President and other expenditure relating to his office;
- the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;
- debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;
  - the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;
  - the pensions payable to or in respect of Judges of the Federal Court;
  - the pensions payable to or in respect of Judges of any High Court which exercises
- the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India;
- any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- any other expenditure declared by this Constitution or by Parliament by law to be so charged.

### Other Provisions:

- No demand for a grant shall be made except on the recommendation of the President
- The expenditure charged upon the consolidated funds are non-votable in the parliament but can be discussed.
- **There shall be no discussion of the Budget on the day on which it is presented to the House**

2. **Demands for grants:** There shall be no discussion of the Budget on the day on which it is presented to the House
3. **General discussion on Budget:** On a day to be appointed by the Speaker subsequent to the day on which the Budget is presented and for such time as the Speaker may allot for



this purpose, the House shall be at liberty to discuss the Budget as a whole. But no motion shall be moved nor shall the Budget be submitted to the vote of the House.

4. The Speaker shall, in consultation with the Leader of the House, allot so many days as may be compatible with the public interest for the discussion and voting of demands for grants.

#### Cut motions:

- **Disapproval of Policy Cut Motion:** 'that the amount of the demand be reduced to Re. 1/-' representing disapproval of the policy underlying the demand.
- **Economy Cut:** that the amount of the demand be reduced by a specified amount' representing the economy that can be effected.
- **Token Cut:** 'that the amount of the demand be reduced by Rs. 100/-' in order to ventilate a specific grievance which is within the sphere of the responsibility of the Government of India.

The Admissibility of these cut motions are decided by the speaker .

#### Supplementary, additional or excess grants

- **Supplementary Grant:** if the **amount authorised** for the current financial year is **found to be insufficient** for the purposes of that year or when a need has arisen during the current financial year for **supplementary**
- **Additional Grant:** for additional expenditure upon **some new service not contemplated** in the annual financial statement for that year, or
- **Excess Grant:** 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. It is voted by the Lok Sabha after the financial year.** Before the demands for excess grants are submitted to the Lok Sabha for voting, they must be approved by the Public Accounts Committee of Parliament.
- **Vote of Credit:** It is granted for meeting an **unexpected demand upon the resources of India**, when on account of the magnitude or the **indefinite character of the service**, the demand cannot be stated with the details ordinarily given in a budget. Hence, it is like a blank cheque given to the Executive by the Lok Sabha.
- **Token Grant:** It is granted when funds to meet the proposed expenditure on a new service can be made available **by re-appropriation**. A demand for the grant of a **token sum (of Re 1)** is submitted to the vote of the Lok Sabha and if assented, funds are made available.

- Government cannot withdraw money from the Consolidated Fund of India till the **enactment of the appropriation bill. This takes time and usually goes on till the end of April.** But the government needs money to carry on its normal activities after 31 March (the end of the financial year). To overcome this functional difficulty, the Constitution has authorised the Lok Sabha to make any grant in advance in respect to the estimated expenditure for a part of the financial year, pending the completion of the voting of the demands for grants and the enactment of the appropriation bill.
- **This provision is known as the 'vote on account'. It is passed (or granted) after the general discussion on budget is over. It is generally granted for two months for an amount equivalent to one sixth of the total estimation.**

**Question 23. Why can the Lok Sabha control the executive more effectively than the Rajya Sabha can? (To be discussed in class)**

intro: our constitution prescribes for parliament form of government. which essential means executive accountable to legislator Indian as two house of Legister at union Lok Sabha and Rajya Sabha. both have means to control the government. however there are certain resigns look Sabha have better control.

- 1)democratic pure house with direct mandate of people.
- 2)numerically more strength.
- 3)collative responsibility:: executive has to form the majority in the Lok Sabha.  
executive has to take confidence from the Lok Sabha.
- 4) fiannacial accountabilty:
- 5) nature of both house; Rajya sabha is coouncil of state they are representing the  
concern/interest of state and simillary constitution give them power.

having said that Lok sabha can effectively control over the executive but also rajya sabha not immaterial to it.

equal :

- 1) amendment of constitution
- 2) Approving the emergency
- 3) value of veto assigned to MP in election of president.
- 4) introduction to ordinary bill.

not equal

- 1) while revocation of emergency
- 2) in money bill
- 3) article 75 collective responsibility council in Lok Sabha.
- 4) while the joint sitting.

Article 249 : if parliament want to make law in the state list in national interest then bill must be passed in Rajya Sabha with 2/3 present majority. valid for 1 years can be extended.

creation of All India services is power of Rajya Sabha.

1. "The constitution of India is a product of historical process with rich constitutional antecedent". Comment.
2. What is 'Protected discrimination'? Examine how far it is constitutional under Article 15 and 16.
3. Discuss the possible factors that inhibit India from enacting for its citizen a uniform civil code as provided for in the Directive Principles of State Policy.
4. Starting from inventing the 'basic structure' doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy.
5. "DPSP are not merely a pious declaration rather a clear direction in state policy". Examine how far they have been applied in practice.

Ans::2 : -----

Protected discrimination refer to provisions and action that allow differential treatment to different class who have been subjected to historical injustice. and social exclusion. this provisions aims to protect marginalized or underrepresented groups by providing they with adequate opportunities and same guards.

some of the manifestations of protective discrimination are mainly under article 15 and article 16 along with some other provisions like article 29 and article 30 , 330 332.

article 15 its self-forbids discrimination based on race region caste sex and place of birth but in it later classes it empower the state to make special provision for protection of women and child, advisements of SEBC . including reservation in admissions and recently this protection has been extended to economically weaker section as well father more article 16 gives the similar protection to certain classes citizen in terms of public appointment it may be noted that foreside

provision are simplify enabling provision neither imposes any constitutional duty and nor it confers the fundamental rights on those who claiming the reservation.

the reservation does not rule out the merit. the judgmental of merit may at serval Tyre and it may undergo serval filtration this protective discrimination are simply safety Nate provided to this disadvantage group. in order to create level playing field.

the court while balancing the protection and merit have tried to fix the limit of 50% indra sawhmy case. recently while hearing Maratha Cota case the constitution bench of supreme court has observed that to dilute bench march would be effectively destroy guarantee of equality specially right not to be discriminate on the ground of caste. the court held that in ordinary situation the rule made in intra swahmy should prevail while only in extraordinary situation it can exceed the 50%.



