

## **Privileges of Members of Parliaments:**

### **Sources:**

- **the Constitution:**
- **Rules of Procedure of respective houses:**
- **Judicial Decisions:**
- **Conventions and parliamentary traditions**

### **Article 105:**

- there shall be freedom of speech in Parliament
- No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings
- privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law,

<b>Collective Privileges</b>	<b>Individual Privileges</b>
right to publish its reports, debates, and proceedings and also the right to prohibit others from publishing the same.	cannot be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session (only in civil cases and not in criminal cases or preventive detention cases)
can exclude strangers from its proceedings and hold secret sittings to discuss some important matters	No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees.
can make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters	exempted from jury service. (can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session)

<b>Power to punish for breach: can punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition, or imprisonment</b>	
<b>courts are prohibited to inquire into the proceedings of a House or its committees</b>	

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





## State Legislatures

### Articles 168 to 212 in Part VI

Only six states have two Houses (bicameral).

These are

- Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Maharashtra, and Karnataka.

#### How can a Legislative Council be created?

- If the **concerned assembly passes a resolution by special majority** (by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.)
- Then parliament may by an act- (Simple Majority) create a LC for the state.
- There has to be separate delimitation in such a manner that ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Stat.
- **It can be abolished in similar manner.**
- These laws of parliament are not considered amendment for the purpose of article 368.

#### Composition of the legislative assembly

- Maximum- 500
- Min- 60
- Directly Elected
- Quorum: Minimum of 10 members or 10% (whichever is higher)

#### **Delimitation in the States:**

- By a law of parliament and Delimitation Commission appointed by it.
- Until relevant census after 2026 has been published, such exercise in states has to be conducted on the basis of 2001 census.
- New delimitation becomes effective from date as notified by the president.

#### Composition of Council

- Maximum:  $\frac{1}{3}^{\text{rd}}$  of total strength of respective assembly (Constitution Seventh (Amendment) Act, 1956)- earlier it was  $\frac{1}{4}^{\text{th}}$ .
- Min= 40
- **Quorum:** Minimum of 10 members or 10% (whichever is higher)
- Nominated and Elected
- Wherever required election are done in accordance with the system of **proportional representation by means of the single transferable vote.**

#### Tenure:

**Legislative Council:** The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof

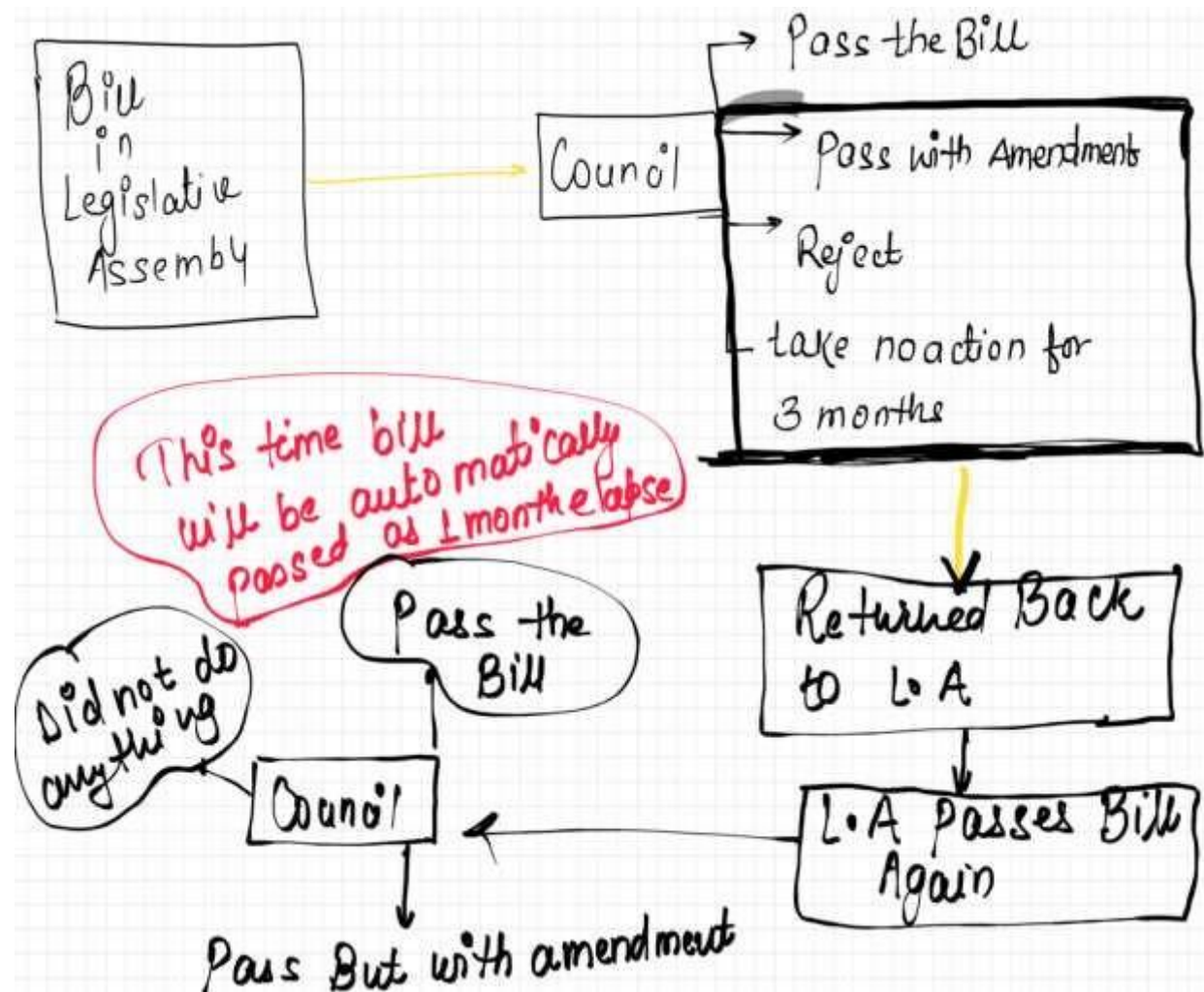
shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

#### **Legislative Assembly:**

- Not exceeding 5 Years from date of first meeting.
- During emergency can be extended by Parliament by **law for a period not exceeding one year at a time** and in no case **beyond a period of six months after the Proclamation has ceased to operate.**

#### **Qualification:**

- **is a citizen of India** and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule.
- For legislative assembly **not less than twenty-five years of age** and, in the case of a seat in the **Legislative Council, not less than thirty years of age.**
- **Oath:** Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him.
- **Grounds of Disqualification same as that of MPs.**
- **Decision on Disqualification:**
- Under Xth Schedule: Speaker
- Other: the question shall be referred for the decision of the Governor and his decision shall be final. The Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.



**Parliamentary Committees:** A significant feature of the legislative process is the appointment of committees for various legislative purposes. These committees play a vital role not merely in law making, but also in the day-to-day business of the House. Since the Parliament meets only during sessions, it has very limited time at its disposal. The making of law for instance requires in-depth study of the issue under consideration. This in turn demands more attention and time. Similarly, there are other important functions also, like studying the demands for grants made by various ministries, looking into expenditure incurred by various departments, investigating cases of corruption etc. Parliamentary committees perform such functions.

### General Rules

The members of a Committee shall be appointed or elected by the House on a motion made, or nominated by the Speaker as the case may be.

- A Committee nominated by the Speaker shall, unless otherwise specified in the rules shall hold office for the period specified by the Speaker or until a new Committee is nominated.
- The Chairperson of a Committee shall be appointed by the Speaker from amongst members of the Committee.

- If the Deputy Speaker, is in case is a member of the Committee, he shall be appointed as Chairperson of the Committee.
- The quorum to constitute a sitting of a Committee shall be, as near as may be, one-third of the total number of members of the Committee.
- If a member is absent from two or more consecutive sittings of a Committee without the permission of the Chairperson, a motion may be moved in the House for the discharge of such member from the Committee.
- All questions at any sitting of a Committee shall be determined by a majority of votes of the
  - members present and voting.
- In the case of an equality of votes on any matter, the Chairperson or the person acting as such, shall have a second or casting vote.
- A Committee may appoint one or more sub-Committees, each having the powers of the undivided Committee.
- Where the House has not fixed any time for the presentation of a report by a Committee the report shall be presented within one month of the date on which reference to the Committee was made.
- The sittings of a Committee shall be held in private.
  - o Powers of a civil court vested in the committee:
  - o A Committee shall have power to send for persons, papers and records Committee may administer oath or Evidence affirmation to a witness examined before
  - o The examination of witnesses before a Committee shall be conducted as follows

Committee	Constitution	Tenure	Functions
Business Advisory Committee in Lok Sabha:	<ul style="list-style-type: none"> <li>• Max 15 Members •</li> <li>Chairman: Speaker</li> </ul>		to recommend the <b>time that should be allocated for the discussion of the stage or stages of Government Bills and other business</b>
Committee Private members' bills And Resolutions	<ul style="list-style-type: none"> <li>• Max 15 Member</li> <li>• Nominated by Speaker</li> </ul>	<b>1 Year</b>	to examine every Bill seeking to amend the Constitution notice of which has been given by a private member, before a motion for leave to introduce the Bill is included in the list of business;



<b>Committee on Petitions</b>	<ul style="list-style-type: none"> <li>• Max 15 Member</li> <li>• Nominated by Speaker</li> <li>• a Minister shall not be nominated a member of the Committee,</li> </ul>	<b>1 Year</b>	
<b>Committee on Public Accounts</b>	<ul style="list-style-type: none"> <li>• Max 22 Member</li> <li>• 15 From L.S and 7 from R.s</li> <li>• a Minister shall not be nominated a member of the Committee,</li> </ul>	<b>1 Year</b>	<ul style="list-style-type: none"> <li>• <b>Examine the annual audit reports of the Comptroller and Auditor General of India (CAG).</b></li> <li>• The committee examines public expenditure not only from legal and formal point of view to discover technical irregularities but also from the point of view of economy, prudence, wisdom and propriety view.</li> <li>• examine the accounts of state corporations except those public undertakings which are allotted to the Committee on Public Undertakings.</li> <li>• In the fulfilment of the above functions the CAG acts as a guide, friend and philosopher of the committee</li> </ul>
<b>Estimates Committee</b>	<ul style="list-style-type: none"> <li>• All the thirty members are from Lok Sabha only. The Rajya Sabha has no representation in this committee. (Amongst</li> </ul>	<b>1 Year</b>	to report what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected;
	themselves through		

	<p>PRSTV).</p> <p>A minister cannot be elected as a member of the committee.</p> <ul style="list-style-type: none"> <li>The chairman of the committee is appointed</li> <li>by the Speaker from amongst its members and he is invariably from the ruling party.</li> </ul>		<p>to suggest alternative policies in order to bring about efficiency</p> <p>to examine whether the money is well laid out within the limits of the policy implied in the estimates; and</p> <p>to suggest the form in which the estimates shall be presented to Parliament</p>
<b>Committee on Public Undertakings</b>	<ul style="list-style-type: none"> <li><b>22 Members (15 from the Lok Sabha and 7 from the Rajya Sabha).</b></li> <li><b>A minister cannot be elected as a member of the committee.</b></li> <li><b>the members of the committee who are from the Rajya Sabha cannot be appointed as the chairman.</b></li> </ul>		<ul style="list-style-type: none"> <li>to examine the reports and accounts of the public undertakings</li> <li>to examine the reports, if any, of the Comptroller and Auditor-General on the public undertakings;</li> <li>to examine, in the context of the autonomy and efficiency of the public undertakings, whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices;</li> </ul>
<b>Committee on Privileges</b>	<ul style="list-style-type: none"> <li>Max 15 Member</li> <li>Nominated by Speaker</li> </ul>		<ul style="list-style-type: none"> <li>shall examine every question referred to it and 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</li> </ul>

17  
Departmental  
Related  
Standing  
Committees  
(DRSCs)  
set up in  
Parliament  
1993.

In 2004, seven more  
such committees  
were setup, thus  
increasing their  
number from 17 to  
24.

The main objective is  
to secure more  
accountability of the  
Executive (i.e., the  
Council of Ministers)  
to the Parliament,  
particularly financial  
accountability.

They also act as  
Parliamentary  
debating  
budget  
effectiveness

Each standing  
committee consists of  
31 members  
(21 from Lok Sabha  
and 10 from Rajya  
Sabha).

Members are  
nominated  
respectively by  
chairmen

A minister is not  
eligible to be  
nominated as a  
member of any of  
the standing  
committees.

Out of the 24  
standing  
committees,  
8 work under the  
Rajya Sabha and  
16 under the Lok  
Sabha.

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.**

Question 22. How has the system of parliamentary committee affected the overseeing and appraisal of legislation by the Parliament? To be discussed in class. Or

Why do you think the committees are considered to be useful for parliamentary work? Discuss, in this context, the role of the Estimates Committee.

off lately we may find that greater number of bills has been passed in single session of parliament as compared to previous 2 decades. this may indicate that efficiency of parliament getting increased however there is another face of story that indicates this bill were passed without the scrutiny of parliamentary committee.

committees of the parliament are instrument of parliament which helps in effective control over the executive and effective legislation in various ways.

1) it helps in reducing the burden of house. committees are formed on the basis of proportional strength of individual party and keeping in mind interest or expertise of individual lawmakers. hence it can provide the forum for better informed and intensive discussion.

2) no party pressure: the meeting of the committees is held in secret and members are not bound by the party.

3) committee may provide up to date knowledge and technical expertise over the subject matter which is missed by the individual legislator.

4) better control over the executive: the departmentally related (DRSC) can call senior official from the government and question them over the matter concerning finance, budget or proposed legislation this mechanism enables parliamentarians to understand the executive process closely.

5) public consultation: committees may seek inputs from stakeholders, individuals' experts, interest groups and general public through hearing submissions or consultation by engaging by various perspectives and concerns the committee enhances the democratic nature of legislation and ensures the voices of affected individuals are heard.

reason for ineffectiveness/ failure:

1) The parliament tends to ignore reports of committees. reports of various committees are not even tabled before parliament for debate and deliberation.

2) reluctant by the executive: if reports of committees are contrary to government majority has no interest in tabling that while reports of committees are favouring the government, they are too superfluous.

3) Even opposition who find itself as prospective executive are not keen on relying on the parliamentary tool.

4) financial committee and their recommendations are simply acts of post-mortem and they are held non-binding upon the government.

Privilege motion	Censure motion	Adjournment motion	No-confidence motion	Closure motion
Can be moved Against individual minister	Can be moved against whole council of minister.	To discuss the issue of urgent public matter and where government has failed to take up such issues	To prove the majority of the government in house.	Simple closure. Compartment closure Kangaroo closure Guilting closure.
To criticise The minister if he as breaches the parliamentary privileges	To criticise the council over a policy failure	50 member's supports Only in Lok Sabha.	50 members Support to be adopted.	-
Need not resign	Not required to resign	Not required	Must be resign President can remove	-


**Lok sabha if bill/ motion comes contact of lok sabha and it is desolved now bill will collapse. Not if bill is at stage of president.**



Question 23. Do Department-related Parliamentary Standing Committees keep the administration on its toes and inspire reverence for parliamentary control? Evaluate the working of such committees with suitable examples. (To be discussed in class)



Q) we have adopted proportional representation through single transferable vote and indirect election with limited Frenchies for president examine reason.



### **Previous Years Questions for Self-Practice:**

1. 'Simultaneous election to the Lok Sabha and the State Assemblies will limit the amount of time and money spent in electioneering but it will reduce the government's accountability to the people' Discuss.
2. The Indian Constitution has provisions for holding a joint session of the two houses of the Parliament. Enumerate the occasions when this would normally happen and the occasions when it cannot, with reasons thereof.