



GS FOUNDATION BATCH FOR CSE 2024

Polity - 12

(Legislatures of Union and States)

Legislatures of Union and States

Legislature is not merely a law making body. Law-making is one of the functions of the legislature. It is the **centre of all democratic political process**. Indeed, a genuine democracy is inconceivable without a representative, efficient and effective legislature. Yet, in most democracies, legislatures are losing central place to the executive. In India too, the Cabinet initiates policies, sets the agenda for governance and carries them through. This has led some critics to remark that the Parliament has declined. It is recognised as one of the most democratic and open forum of debate. On account of its composition, **it is the most representative of all organs of government. It is above all, vested with the power to choose and dismiss the government.**

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Bicameralism:

When there are two houses of the legislature, it is called a **bicameral legislature**. The Constitution has given the States the option of establishing either a unicameral or bicameral legislature. At present only six States have a bicameral legislature.

States having a bicameral legislature:

1. Andhra Pradesh
2. Bihar
3. Telangana
4. Karnataka
5. Maharashtra
6. Uttar Pradesh

Countries with large size and much diversity usually prefer to have two houses of the national legislature to give representation to all sections in the society and to give representation to all geographical regions or parts of the country. **A bicameral legislature makes it possible to have every decision reconsidered.** This ensures a double check on every matter. **Upper House could perform the useful function of being a revising body.**

For and Against of Bicameralism:

For

- it serves as a sobering influence on the Lower House and provides an opportunity for minorities and intellectuals.

- Representing the interests of federal units (states) at union level.

Against

- it is used more often to rehabilitate jobless politicians, straining the public exchequer.
- they can be used to park leaders who have not been able to win an election.
- it delays important legislations over political considerations.
- Also, sometimes upper house acts as an escape route for those legislators who are disqualified under anti defection too.

Speaking in constitution assembly, one of its members argued against the need of having upper house:

“Here they have provided for two chambers and the worst part of this is that in the Upper Chamber we shall have twelve nominated members; and we passed the other day that even those members, **who have been nominated and who will never seek the vote of the people, can become ministers also. I think this is a most undemocratic aspect of our Constitution**”.

Speaking over Legislative Council of states, Dr Ambdekar has said, that it was purely experimental and states could move out of this arrangements if they did not like it.

- Others who too opposed bicameralism termed Upper House as “clog in wheel of progress”,
- Twenty-four states have unicameral legislatures, that is, **only one legislative body, and only six states are bicameral. There is no justifiable legal basis for this classification** for if size is a determinant for bicameralism then for every Uttar Pradesh or Maharashtra that is two-House in design there is a West Bengal and Tamil Nadu that is not. If the bulk of the states can make do with one House, why not the Centre?
- The Basic Structure doctrine enunciated by the Supreme Court in Re: Keshavananda Bharti **holds parliamentary democracy to be basic structure, not bicameralism.**

Utility of Upper House:

- To meet exigency when popular house is not in session or dissolved. E.g. Approval of emergency resolution.
- **Council of states-** as name suggest is the representative body made up of representative of state and they represent the interest of states.
- Need to approve some special resolutions e.g. one under Article 249, Creation of All India Services, Creation/Abolition of legislative council at states etc.

Article 79: 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.

Rajya Sabha

Each of the two Houses of the Parliament has different bases of representation. The Rajya Sabha represents the States of India. **It is an indirectly elected body.** Residents of the State elect members to State Legislative Assembly. The elected members of State Legislative Assembly in turn elect the members of Rajya Sabha.

One way is to give equal representation to all the parts of the country irrespective of their size or population. We may call this as **symmetrical representation**. In the U.S.A, every state has equal representation in the Senate.

This **second method means that regions or parts having larger population would have more representatives in the second chamber than regions having less population. India follows this system.** The number of members to be elected from each State has been fixed by the fourth schedule of the Constitution.

All members of the Rajya Sabha do not complete their terms at the same time. Thus, the **Rajya Sabha is never fully dissolved.** Therefore, it is called the **permanent House of the Parliament.**

Advantage of this arrangement is that even when the Lok Sabha is dissolved and elections are yet to take place, the meeting of the Rajya Sabha can be called and urgent business can be conducted.

Article 80. Composition of the Council of States: The Council of States] shall consist of—

- (a) **twelve members to be nominated** by the President in accordance with the provisions of clause (3); and
- (b) **not more than two hundred and thirty-eight** representatives of the States 3 [and of the Union territories].

(2) The allocation of seats in the Council of States to be filled by representatives of the States 3 [and of the Union territories] shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) 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.**

(4)The representatives of each State in the Council of States shall be elected

Lok Sabha:

The Lok Sabha and the State Legislative Assemblies are directly elected by the people. For the purpose of election, the entire country (State, in case of State Legislative Assembly) is divided into **territorial constituencies of roughly equal population. One representative is elected from each constituency** through

universal adult suffrage where the value of vote of every individual would be equal to another. At present there are 543 constituencies for Lok Sabha.

This number has not changed since 1971 census.

Delimitation is the act of redrawing boundaries of Lok Sabha and state Assembly seats to represent changes in population. **The main objective of delimitation is to provide equal representation to equal segments of a population.** Further, the population does not grow uniformly across all areas of a state. Hence, delimitation of constituencies is periodically carried out to **reflect not only an increase in population but changes in its distribution.**

Delimitation is carried out by an independent Delimitation Commission, appointed by the Government of India under provisions of the Delimitation Commission Act. The Delimitation Commission is appointed by the President of India and works in collaboration with the Election Commission of India. It is composed of the following: a retired Supreme Court judge, the Chief Election Commissioner of India and respective State Election Commissioners. The Delimitation Commission's orders are final and cannot be questioned before any court as it would hold up an election indefinitely.

After every census, a readjustment is to be made in

- (a) allocation of seats in the Lok Sabha to the states, and
- (b) division of each state into territorial constituencies.

This is done based on recommendation of Delimitations Commission and by an act of parliament.

- The 42nd Amendment Act of 1976 **froze the allocation of seats in the Lok Sabha to the states and the division of each state into territorial constituencies till the year 2000 at the 1971 level.**
- This ban on readjustment was extended for another 25 years (i.e. up to 2026) by the 84th Amendment Act of 2001, with the same objective of encouraging population limiting measures.
- Later, the 87th Amendment Act of 2003 provided for the delimitation of constituencies on the basis of 2001 census and not 1991 census. However, this can be done without altering the number of seats allotted to each state in the Lok Sabha.

Stages in Delimitation:

1. Parliament is to **enact a Delimitation Act** after every Census.
2. Once the Act is in force, the **Union government sets up the Delimitation Commission.** The Commission is supposed to **determine the number and boundaries of constituencies** in a way that the population of all seats, so far as practicable, is the same.

3. The Commission is also tasked with identifying seats reserved for Scheduled Castes and Scheduled Tribes.
4. The draft proposals of the Delimitation Commission are published for public feedback. The Commission also holds public sittings. After hearing the public, it considers objections and suggestions, and carries out changes, if any, in the draft proposal.
5. The final order is published in the Gazette of India and the State Gazette concerned and comes into force on a date specified by the President.

Past Delimitations: In the history of the Indian republic, Delimitation Commissions have been set up four times — 1952, 1963, 1973 and 2002 under the Acts of 1952, 1962, 1972 and 2002. There was no delimitation after the 1981, 1991 and 2001 Censuses.

However, the 2002 Act did not make any changes in total Lok Sabha seats or their apportionment between various states. It also left out a few states including Assam, Arunachal Pradesh, Nagaland and Manipur from the exercise due to “security risks.” The central government reconstituted the Delimitation Commission for these four states as well as the union territory of Jammu and Kashmir on 6 March 2020.

Power to merge administrative district lies with.?

Representative of States	530	(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and
Union Territories	20	(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State
Anglo Indians**	2	This clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions
Present strength is	543	

Tenure of Lok Sabha: The Lok Sabha is elected for a maximum period of five years. Lok Sabha can be dissolved if no party or coalition can form the government or if the Prime Minister advises the President to dissolve the Lok Sabha and hold fresh election.

While Proclamation of Emergency is in operation, be **extended by Parliament by law for a period not exceeding one year at a time** and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

Ques. Function of parliament is not limited to merely to making laws but its beyond that. What are the multiple functions being performed by the parliament in India? (To be discussed in class).





Ques. To what extent, in your view, the Parliament is able to ensure accountability of the executive in India?





Article 84 Qualification for membership of Parliament.—

- is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an **oath or affirmation according to the form set out for the purpose in the Third Schedule;**]
- is, in the case of a seat in the Council of States, **not less than thirty years** of age and, in the case of a seat in the House of the People, not less than **twenty-five years of age;** and
- possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Constitutional (Provided under Article 102)	Under RoPA
Should not hold office of profit	guilty of certain election offences or corrupt practices in the elections
Should not be of unsound mind	convicted for any offence resulting in imprisonment for two or more years
Should not be Undischarged insolvent	failed to lodge an account of his election expenses within the time
Not have acquired citizenship on any other country	must not have been dismissed from government service for corruption or disloyalty to the State
A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule	convicted for promoting enmity between different groups or for the offence of bribery
	director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share

As per article 101: A person cannot be a member of both Houses of Parliament at the same time. Thus, the Representation of People Act (1951) provides for the following:

(a) If a person is elected to both the Houses of Parliament, **he must intimate within 10 days in which House he desires to serve. In default of such intimation**, his seat in the Rajya Sabha becomes vacant.

(b) If a sitting member of one House is also elected to the other House, his seat in the first House becomes vacant.

(c) If a person is elected to **two seats in a House, he should exercise his option for one**. Otherwise, both seats become vacant.

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

- If for a period of sixty days a member of either House of Parliament is absent without permission of the House from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualification of Members: Decision of disqualification (for matters under article 102, except tenth schedule) shall be taken by the president after obtaining mandatory opinion of Election Commission of India. President shall **act according to the opinion of Election Commission** and his decision shall be final.

Ways through which a member can be disqualified:

1. Annulment of election
2. Held Guilty of offences and as per provisions of Representation of People Act
3. On Grounds of Anti Defection.
4. Others: on advice of election commission of India.

Ques. 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.**

Ques. Discuss the role of the Vice-President of India as the Chairman of the Rajya Sabha.







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 setting 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**".

Ques. '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 **11.00hours 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.

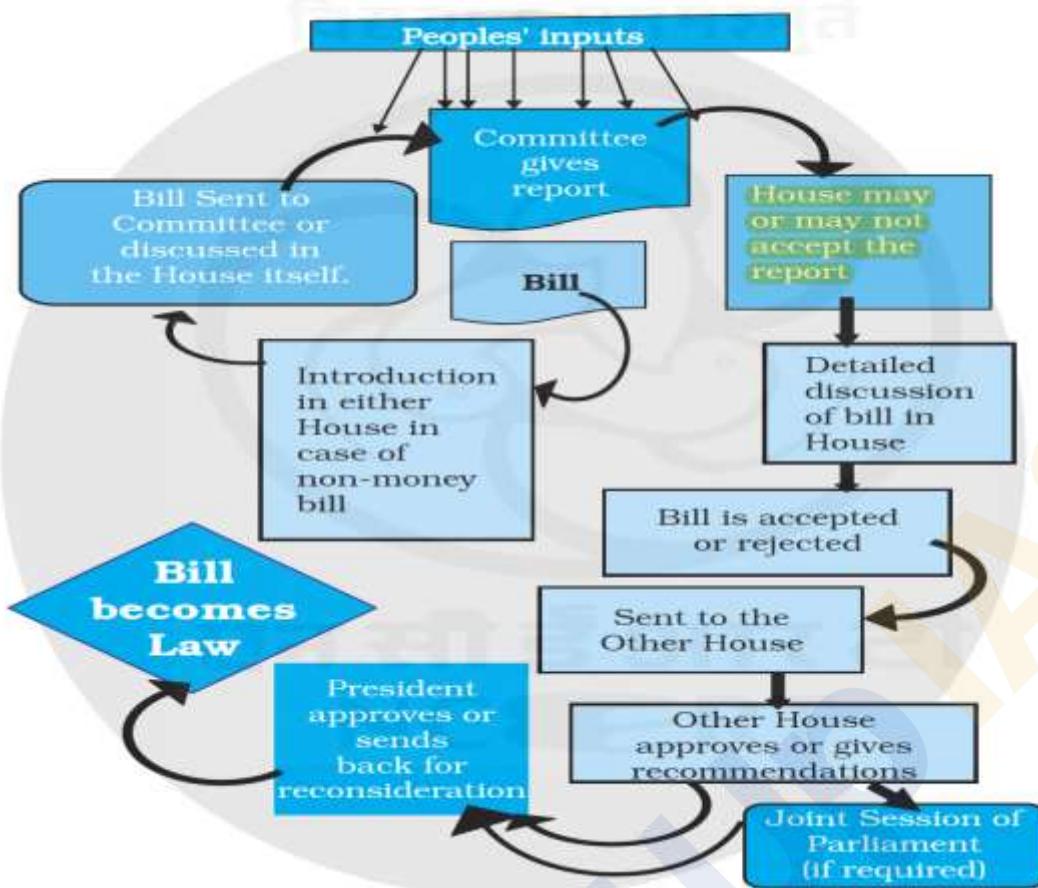
Motion of Thanks on Address Made by the President:

- 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.

Ordinary Bills: Every ordinary bill has to pass through the following five stages

1. First Reading:
Member has to ask the leave(permission) of the house.

the mover of the bill introduces it by reading its title and objectives.

No discussion on the bill takes place at this stage.

The introduction of the bill and its publication in the Gazette constitute the first reading of the bill.

2. Second Reading

During this stage, the bill receives not only the general but also the detailed scrutiny and assumes its final shape. 3 sub-stages:

- General discussion
- Committee Stage
- Consideration Stage

3. Third Reading: At this stage, **the debate is confined to the acceptance or rejection of the bill as a whole** no amendments are allowed, as the general principles underlying the bill have already been scrutinized during the stage of second reading. **If the majority of members present and voting accept the bill, the bill is regarded as passed by the House.**

4. Bill in Other House:

1. it may pass the bill as sent by the first house (ie, without amendments);
2. it may pass the bill with amendments and return it to the first House for reconsideration;
3. it may reject the bill altogether; and
4. it may not take any action and thus keep the bill pending.

5. Presented to President

1. Gives his assent
2. Withhold his assent
3. Sends back for reconsideration
4. Takes no Action

Kinds of Bills	Prior Recmd of President	Where it can be introduced	Role of Rajya Sabha

						Majority Required
						Provision of Joint Sitting
						Veto Powers of President

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.
 - he 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.**

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



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,

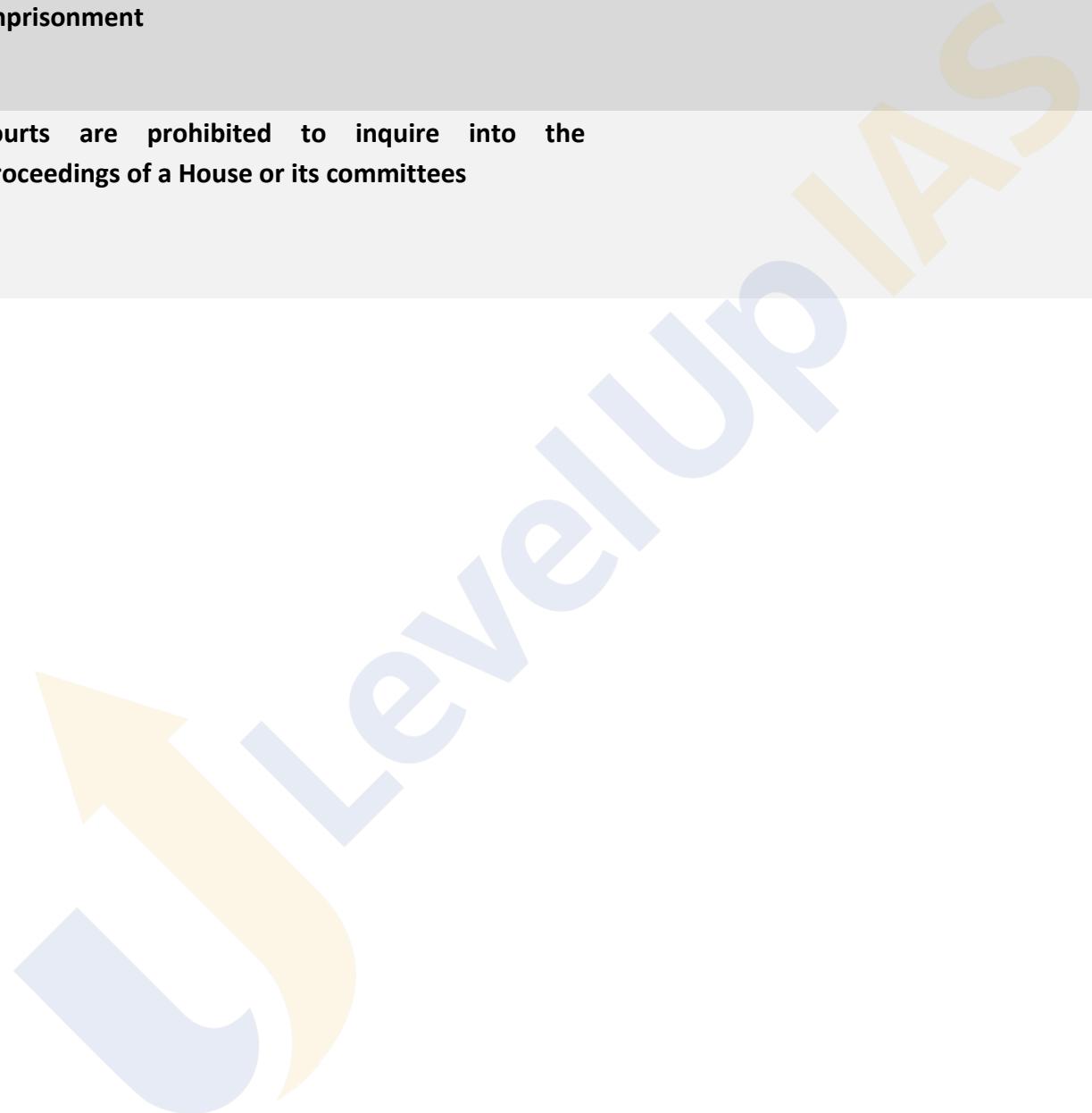
Collective Privileges	Individual Privileges
<p>right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same.</p>	<p>cannot be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session (only in civil cases and not in criminal cases or preventive detention cases)</p>
<p>can exclude strangers from its proceedings and hold secret sittings to discuss some important matters</p>	<p>No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees.</p>

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)

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

courts are prohibited to inquire into the proceedings of a House or its committees





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 State
- **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: $1/3^{\text{rd}}$ of total strength of respective assembly (Constitution Seventh (Amendment) Act, 1956)- earlier it was $1/4^{\text{th}}$.
- 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.

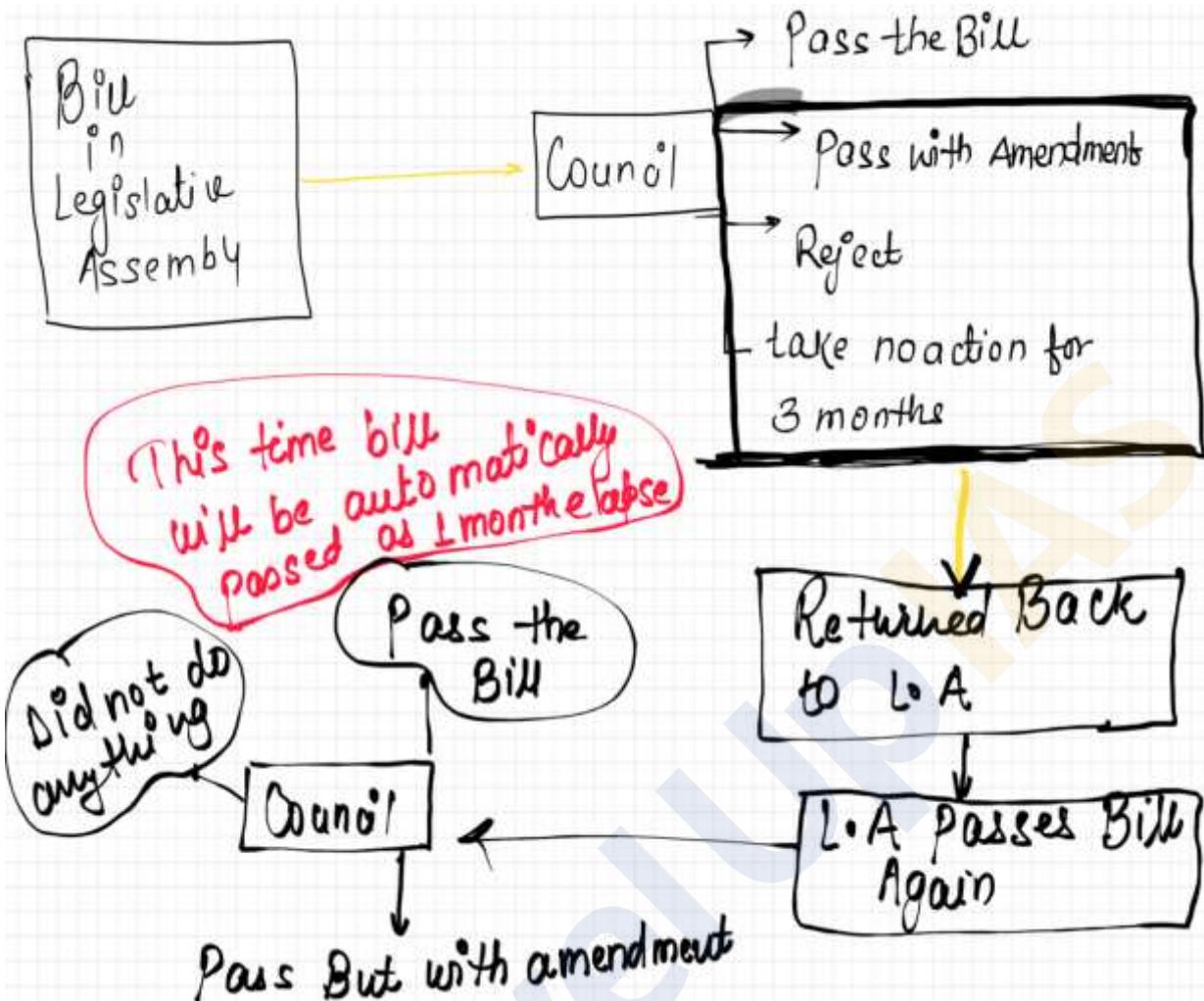
Legislative Assembly:

- 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: By 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.

Ques. Explain the constitutional provisions under which Legislative Councils are established. Review the working and current status of Legislative Councils with suitable illustrations.



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.

Both houses of the parliament under its rules of procedure and conduct of business, are equipped with various committees with a view to better organise its works and discharge its functions effectively.

Parliamentary committees have had a long history and some of these committees predates the constitution itself. **These committees play a vital role not merely in law making, but also in the day-to-day business of the House.**

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.
 - Powers of a civil court vested in the committee:
 - A Committee shall have power to send for persons, papers and records Committee may administer oath or Evidence affirmation to a witness examined before
 - 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"> • Max 15 Members • Chairman: Speaker 		to recommend the time that should be allocated for the discussion of the stage or stages of Government Bills and other business

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

	<p>themselves through PRSTV).</p> <ul style="list-style-type: none"> • A minister cannot be elected as a member of the committee. • The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party 		<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>
Committee on Public Undertakings	<ul style="list-style-type: none"> • 22 Members (15 from the Lok Sabha and 7 from the Rajya Sabha). • A minister cannot be elected as a member of the committee. • the members of the committee who are from the Rajya Sabha cannot be appointed as the chairman • 		<ul style="list-style-type: none"> • to examine the reports and accounts of the public undertakings • to examine the reports, if any, of the Comptroller and Auditor-General on the public undertakings; • 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;
Committee on Privileges	<ul style="list-style-type: none"> • Max 15 Member • Nominated by Speaker 		<ul style="list-style-type: none"> • 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

Departmentally Related Standing Committees

17 Departmentally-Related Standing Committees (DRSCs) were set up in the Parliament in 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 assist the Parliament in debating the budget more effectively.

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

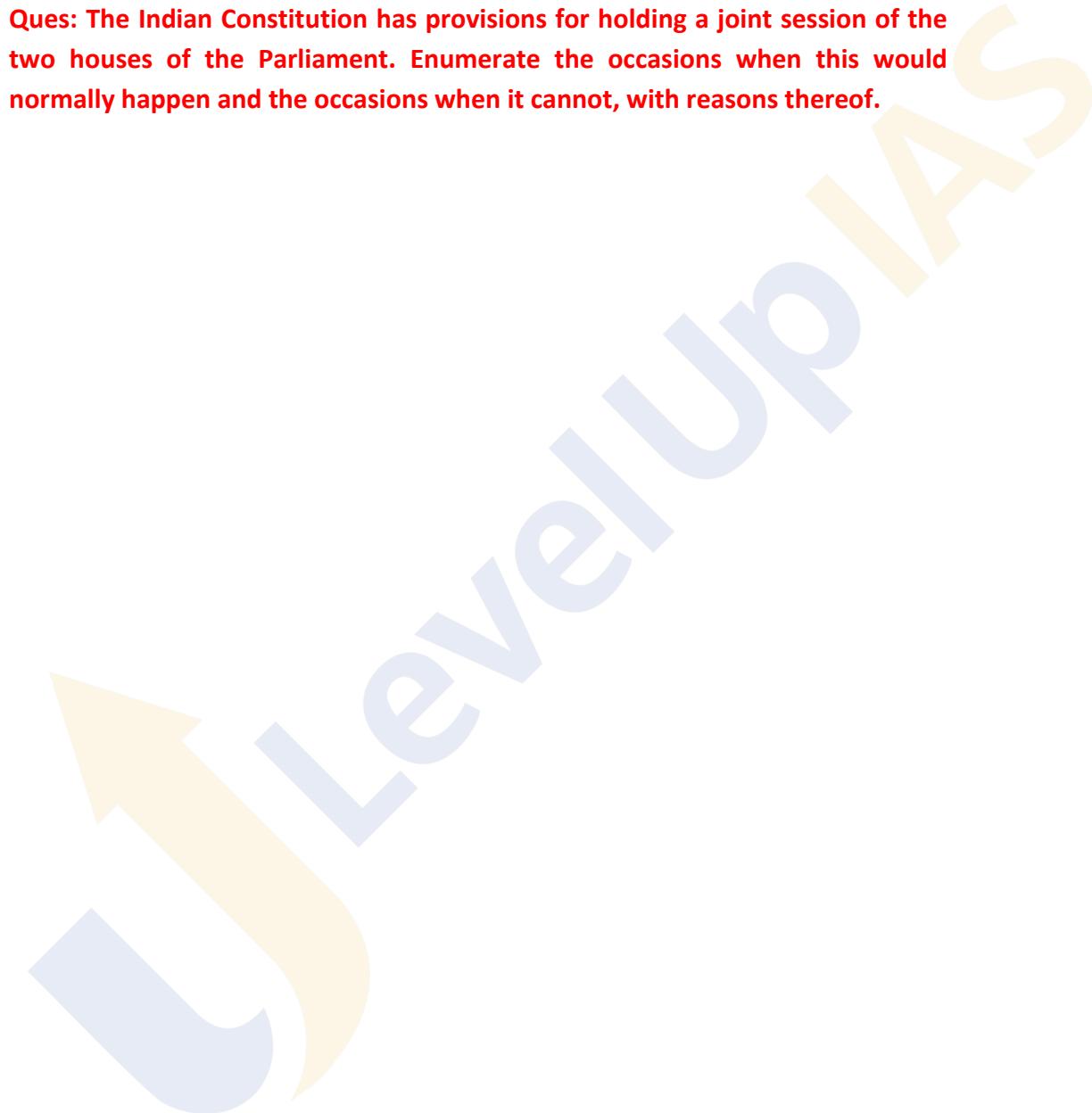
Or

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

Ques 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)

Ques: '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.

Ques: 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.





Question 20. Function of parliament is not limited to merely to making laws but its beyond that. What are the multiple functions being performed by the parliament in India? (To be discussed in class)

Pointers:

Multiple Functions:

1. Legislative Function
2. Constituent Functions
3. *Financial Control*
4. Ensuring accountability of the executive
5. Representing Voices of the people
6. Judicial Functions
7. Electoral Functions (Electoral College)
8. Role of Opposition

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)

Pointers:

Lok Sabha or as it is called House of People consist of those members who are directly elected by the people of India from their respective constituencies. Though it has got multiple functions but primarily it serves as a forum to represent popular will of the people, their demands and discontent. Hence, the constitution has provided various mechanism through which people can be represented in Lok Sabha such as:

1. **Collective Responsibility:** Only those parties or alliance can form government who commands the majority in the Lok Sabha. It is the enforcement of the high ideals of democracy that a government shall always be made "by the people and of the people".
2. **Representation to wider section of society:** Not only a peculiar section of the society but almost all sections of societies are given due representation in Lok Sabha. The elections are conducted based on universal adult franchise. Further, adequate reservations of seats are provided for the members of Scheduled Castes and Scheduled Tribes. Again, with passage of the 128th

amendment bill of the constitution, women will also get a reservation of at least one third of the seats in Lok Sabha making it more gender inclusive.

3. **Representatives can ask various questions:** Using the parliamentary tools like Question and Zero hours MPs can ask the questions from concerned ministers with respect to their constituencies and issues being faced by the people thereof.
4. **Adjournment Motion:** Lok Sabha is specially endowed with this privilege that on issues of public importance of urgent nature lok sabha can raise adjournment motion and force the government to take up an urgent matter of public character if government is ignorant about the same.

However, it would be not correct to say that lok sabha is merely a place of popular representation, rather, it also holds the executive accountable and at times of emergency as well it has some special powers too.

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)

Benefits:

Continuity and Experience: Former Speakers possess valuable knowledge, experience, and understanding of the parliamentary processes and procedures. Allowing them to remain involved can provide continuity and stability to the functioning of the Speaker's office. Their expertise can be beneficial in resolving complex procedural matters and ensuring consistency in the interpretation and application of rules.

Institutional Memory: Former Speakers have a deep understanding of the parliamentary institution and its traditions. They can provide institutional memory and insights to the current Speaker, Members of Parliament, and parliamentary staff. This can help maintain the integrity of parliamentary practices and preserve the dignity and decorum of the institution.

Impartiality and Objectivity: By keeping former Speakers

engaged, there is a possibility of imparting objectivity to the office of the Speaker. As neutral and impartial figures, former Speakers can offer guidance and advice to the incumbent Speaker, fostering fair and unbiased conduct of parliamentary proceedings.

Implications:

Political Neutrality: The Speaker's role requires political neutrality and impartiality in presiding over parliamentary debates. Allowing former Speakers to remain active in political or partisan activities could raise concerns about their perceived impartiality. It is crucial to strike a balance between their continued involvement and maintaining the perception of political neutrality.

Constitutional Roles: The Indian Constitution assigns specific roles and responsibilities to the Speaker of the Lok Sabha. Allowing former Speakers to remain involved in the office might blur the distinction between the incumbent Speaker and their predecessors, potentially leading to confusion in the exercise of constitutional functions.

Succession and Leadership: Allowing former Speakers to have continued influence could impact the succession and leadership within the Speaker's office. It may hinder the development of new leadership and fresh perspectives within the parliamentary institution, limiting opportunities for others to contribute effectively.

Potential for Conflict: Involving former Speakers in the functioning of the office could create complexities in decision-making, particularly if there are divergent opinions or clashes between the incumbent and former Speakers. Striking a balance between their involvement and the authority of the current Speaker may be challenging and could potentially lead to conflicts or power struggles.

Need for Defined Roles: If the practice of involving former Speakers is adopted, it is crucial to define their roles, responsibilities, and limitations clearly. This would help ensure clarity and prevent any ambiguity or overlapping of functions.

In conclusion, while the idea of "Once a Speaker, always a

"Speaker" may have some potential benefits, its implementation should be carefully considered, taking into account the implications for the robust functioning of parliamentary business in India. Maintaining the impartiality of the Speaker's office, upholding constitutional roles, and striking a balance between continuity and fresh perspectives are important aspects to be considered in such a practice.

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

- Sanction of People- Popular Confidence
- Collective Responsibility
- Numerical Strength
- Financial Accountability- a) Money Bills b) Financial Committees
- Generally, PM belongs to LS.
- Severe critics of government can be done in LS- Adjournment motion.
- During Emergency- additional powers

"Though the constitution prescribes a scheme where parliament is controlling the executive while in practice it has become otherwise i.e. executive controlling the parliament". Critically Examine the statements.

Under Article 75, The Constitution amply fulfils this ideal by fully underlining the responsibility of the Ministers to the Lok Sabha.

- In the first place, a Minister must be a member of a House of Parliament. Such membership ensures contact between the Executive and the Legislative wings, facilitates co-operation and interaction between them and makes parliamentary control over the Executive somewhat real.
- Ministers stay in office so long as they enjoy the support of a majority in the Lok Sabha. This helps Parliament in calling the Ministers to account, keeping a watch on them, eliciting information from them on matters of public importance and influencing the policy-making process.
- both Houses of Parliament take a number of opportunities to discuss, question, criticise and debate government policy and conduct of administration.
- Fourthly, the Executive cannot ignore and by-pass Parliament because the Constitution enjoins that not more than six months should pass between the end of one session and the beginning of another. Therefore, sooner or later the Executive must face Parliament.
- Lastly, number of constitutional provisions assign to Parliament a role in certain matters pertaining to the Executive, e.g.,
 - Parliament is empowered to fix the emoluments, allowances and privileges of the President, Vice-President and the Ministers.
 - Houses of Parliament may impeach the President for violation of the Constitution; the elected members of Parliament constitute an important segment of the electoral college for electing the President;
 - the Vice-President may be removed from his office by a resolution of the Rajya Sabha agreed to by the Lok Sabha;
 - the Vice-President is elected by the members of both Houses of Parliament.
 - Powers of the Executive to issue ordinances and declare an emergency are subject to parliamentary control

In the modern set up, however, in effect, **more than Parliament controlling the Executive, it is the other way round, viz. the Executive controlling the Parliament:**

- Summoning, prorogation and dissolution of Houses lie in the hands of the Executive.
- The Executive also has a veto on legislation enacted by the Houses and, in financial matters, the executive plays a very important role.
- Practically, all legislation is sponsored by the Ministers.
- The Cabinet is in complete control of the Houses and virtually monopolises business therein.

The dominant role now played by the Cabinet in parliamentary affairs is the result of the emergence of party governments. The dominant role now played by the Cabinet in parliamentary affairs is the result of the emergence of party governments.

The power to dissolve the House is a potent weapon in the hands of the Prime Minister which he wields to control the House.

Not only this, the Cabinet's power of dissolution instils responsibility even in its political opponents who cannot create a crisis on every issue by defeating the Ministry, for they know that in that case the Ministry may appeal to the electorate and seek its verdict.

All these circumstances place an enormous amount of power in the hands of the Cabinet and the Prime Minister. Rarely will a Ministry lose office by an adverse vote so long as it holds its majority in Lok Sabha. The result is that while in theory Parliament is supreme in that it can make or unmake a Ministry, in practice, a Ministry once in power controls and leads the Parliament.

Question 24. How has the system of parliamentary committee affected the overseeing and appraisal of legislation by the Parliament?

Hint:

Of lately we may find in a greater number of bills being passed in a session of parliament as compared to last 2 decades or so. This may indicate that efficiency of parliament is getting increased however, there is another dichotomy that indicates that most of these bills have been passed without scrutiny by parliamentary standing committees.

In a parliamentary democracy, **Parliament has broadly two functions**, which are **law-making and oversight of the executive branch of the government**. Parliament is the embodiment of the people's will. Committees are an instrument of Parliament for its own effective functioning. These committees play a significant role in functioning of parliament:

1. **Reduce burden of houses:** Given the volume of legislative business, discussing all Bills under the consideration of Parliament in detail on the floor of the House is impossible. Committees are platforms for threadbare discussion on a proposed law. At least in principle, the assumption is that the smaller group of MPs are selected on the basis of the proportional strength of individual parties and interests and expertise of individual lawmakers, could have more open, intensive and better-informed discussions.
2. **No Party Pressure:** Committee meetings are 'closed door' and members are not bound by party whips, which allows them the latitude for a more meaningful exchange of views as against discussions in full and open Houses where grandstanding and party positions invariably take precedence.
3. **Committee may provide up to date knowledge and it can provide missing expertise:** While lawmaking gets increasingly complex, **lawmakers cannot infinitely expand their knowledge**. For instance, we live in an era of **metadata being generated by expanding connectivity**. The laws and regulations that are required to govern a digital society cannot be made without highly specialised knowledge and political acumen. Members of Parliament may have great acumen, but they would require the assistance of experts in dealing with such situations. It is through committees that such expertise is drawn into lawmaking.
4. **Exercise better control over executive:** Department standing committees can call from senior officials of the government in a closed setting, allowing for more detailed discussions. This mechanism also enables parliamentarians to understand the executive processes closely.
5. **Public Consultation:** They may seek input from stakeholders, including experts, **interest groups, and the general public, through public hearings, submissions, or consultations**. By engaging with various perspectives and concerns, committees enhance

the democratic nature of legislation and ensure that the voices of affected individuals or groups are heard and considered.

Critical Analysis: Why they have not been so effective.

- it is a simple fact that **Parliament itself tends to ignore the reports of its committees**. Most committee reports are not tabled for deliberation and discussion in Parliament at all. The dilemma is that if the committee reports are indicating certain fact which are contrary to the government, **the majority has no interest in having them tabled**; however, if they broadly uphold the government's position, they are considered **superfluous**. Even opposition who finds itself as prospective executive are not too keen on relying on parliamentary tools.
- Financial Committees mostly does the work of post mortem and their recommendations are not held to be binding.

Question 25. 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)

Hint:

These committees are specialized bodies that examine the work of various ministries and departments of the government. They contribute to effective oversight, ensure accountability, and promote transparency in governance.

- **Scrutiny and Accountability:** DRPSCs conduct detailed scrutiny of the policies, programs, and activities of the government departments. Through their examination, they **identify shortcomings, deficiencies, or irregularities in the administration's work and hold officials accountable**. For instance, the **Standing Committee on Finance scrutinizes the budgetary allocations and expenditure of the Ministry of Finance**, ensuring that public funds are utilized effectively and in accordance with the approved plans.
- **Expertise and Informed Decision-Making:** DRPSCs comprise Members of Parliament who possess relevant expertise, knowledge, and experience in specific areas. Their specialized backgrounds enable them to delve into the technical details and complexities of the subject matter under review. This expertise enhances the quality of deliberations, ensures informed decision-making, and facilitates the formulation of effective policies. For example, the Standing Committee on Health and Family Welfare examines healthcare policies, conducts expert consultations, and makes recommendations for improvements in the sector.
- **Public Participation and Representation:** DRPSCs provide a platform for public participation and representation in the legislative process. These committees often invite experts, stakeholders, and individuals from civil society organizations to present their views, suggestions, and grievances. By including diverse perspectives, the committees contribute to a more inclusive and participatory governance system. The Standing Committee on Agriculture, for instance, engages with farmers' organizations and agricultural experts to address issues related to agricultural policies, farmer welfare, and rural development.
- **Checks and Balances:** DRPSCs act as a mechanism of checks and balances within the parliamentary system. They **examine the functioning of government departments and ensure that they adhere to legislative intent, constitutional principles, and policy objectives**. The committees have the power to summon officials, seek explanations,

and recommend corrective actions. This oversight role promotes transparency, prevents potential abuses of power, and strengthens democratic accountability. The Standing Committee on Home Affairs, for example, assesses the functioning of law enforcement agencies, border security, and counterterrorism measures.

- **Influencing Policy Formulation:** DRPSCs influence policy formulation by providing recommendations and suggestions to the government. The committee reports serve as valuable inputs for refining existing policies or drafting new legislation. The government considers these recommendations and often incorporates them into policy decisions. The Standing Committee on Information Technology, for instance, examines issues related to digital governance, data protection, and cybersecurity, influencing the formulation of laws and regulations in the technology sector.
- **Timely Reports and Monitoring:** DRPSCs submit their reports to Parliament, which are discussed and **debated by MPs**. These reports draw attention to important issues, highlight areas of concern, and suggest remedial measures. By monitoring the implementation of recommendations, the committees ensure that their findings are **acted upon**, thereby promoting accountability and responsiveness. The Standing Committee on Transport, Tourism, and Culture, for example, monitors the progress of infrastructure projects and makes recommendations for their effective execution.