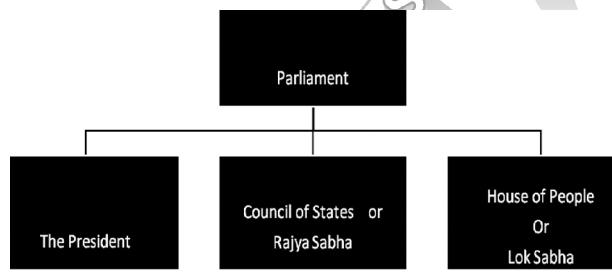


PARLIAMENT

The Indian Constitution has adopted the English pattern in regard to the Composition of the Parliament. Its two characteristics are that the Head of the State is an integral part of the legislature and that it is a bicameral legislature. Article 79 provides for the Constitution of Parliament.

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.



Functions of the Parliament

- To legislate for the smooth administration of the country.
- The Parliament provides members to the council of ministers and also controls it.
- It provides a platform for the opposition to scrutinize the policies of the government.
- It acts as an organ of information. Information provided in the Parliament is authentic otherwise it will be considered as breach of privilege and contempt proceedings can be undertaken.
- The Parliament exercises financial control over the executive.

Is Parliament a Sovereign Body?

Although, in the composition of the Union Parliament, we have followed the British pattern but Indian Parliament is not a sovereign body like the British Parliament, which is picturesquely called the "Mother of Parliaments". It is because of

the reason that the Indian Parliament is a creature of the Constitution and is constituted, under the Constitution, in accordance with the provisions of the Constitution. It may exercise only powers conferred by the Constitution, following the procedure laid down therein. The entire scheme of the Constitution is such that it ensures the sovereignty and integrity of the country as a Republic and the democratic way of life by Parliamentary institutions based on free and fair elections. It is therefore, not a sovereign body.

COUNCIL OF STATES (RAJYA SABHA)

When the Constitution of India was being framed and adopted, the framers of the Constitution were fully aware of, and took into consideration, all the points for and against having a Second Chamber and decided in favour of indispensable bicameralism at the Centre and optional bicameralism in the States. For a decade before the transfer of power in August, 1947 the constitutional framework in India was a makeshift arrangement, with provincial autonomy under the 1935 Constitution operating under a set-up at the Centre based on the relevant provisions of the Government of India Act of 1919. The Central Legislature in India was constituted in accordance with the provisions of the latter Act; it consisted of two Chambers, the Council of State and the Legislative Assembly. The Council of State had 60 members, and the Legislative Assembly 145. The Act of 1935 also envisaged a Legislature of two Chambers, known respectively as the Council of State to be composed of 260 members and the House of the Assembly (or the Federal Assembly) to be composed of 375 members. The federal scheme and the federal executive and the legislative machinery provided by this Act, however, never came into operation. In other words, the structure and composition of the legislative institutions provided in the previous enactments did not furnish any satisfactory basis on which the Legislature of independent India under the new Constitution could be devised; and the Constituent



Assembly had, therefore, to give thought to this matter without any guidance from the past.

There was a considerable volume of opinion against having a Second Chamber which might prove to be a "clog in the wheel of progress", involving expense and adding nothing to the efficiency of work. Replying to this criticism, **Shri Gopalaswami Ayyangar** pointed out that the need for Second Chamber had been felt practically all over world wherever there were federations. He said:

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

COMPOSITION OF THE HOUSE

Article 80 provides that the Council of States shall consist of:

- (a) Twelve members to be nominated by the President from amongst the persons having special knowledge or practical experience in respect of namely: Literature, science, art and social service.
- (b) not more than two hundred and thirty-eight representatives of the States and of the Union territories.

Clause (4) of Article 80 provides that the representatives of each State in the Council of States shall be elected by the elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

Thus the maximum strength of the House is 250, but the present strength of the House is 245. Elections to the Rajya Sabha are indirect; members are elected by the elected members of Legislative Assemblies of the concerned states. The members of the Rajya Sabha are elected for a term of Six years. The Rajya Sabha is not subject to dissolution, one third of its members retire every second year. The allotted quota of the representatives of each State is elected by the members of the Legislative Assembly of that State, in accordance with the system of proportional representation by means of a single transferable vote. The nominated members are persons with special knowledge or practical experience in literature, science, art and social service.

Table 1
The allocation of seats to be filled by representatives of the States and Union territories as presently laid down in the Fourth Schedule to the Constitution

| | | |
|-----|----------------|----|
| 1. | Andhra Pradesh | 18 |
| 2. | Assam | 7 |
| 3. | Bihar | 16 |
| 4. | Jharkhand | 6 |
| 5. | Goa | 1 |
| 6. | Gujarat | 11 |
| 7. | Haryana | 5 |
| 8. | Kerala | 9 |
| 9. | Madhya Pradesh | 11 |
| 10. | Chhattisgarh | 5 |
| 11. | Tamil Nadu | 18 |
| 12. | Maharashtra | 19 |
| 13. | Karnataka | 12 |
| 14. | Orissa | 10 |



| | | |
|-----|------------------------------|----|
| 15. | Punjab | 7 |
| 16. | Rajasthan | 10 |
| 17. | Uttar Pradesh | 31 |
| 18. | Uttaranchal | 3 |
| 19. | West Bengal | 16 |
| 20. | Jammu and Kashmir | 4 |
| 21. | Nagaland | 1 |
| 22. | Himachal Pradesh | 3 |
| 23. | Manipur | 1 |
| 24. | Tripura | 1 |
| 25. | Meghalaya | 1 |
| 26. | Sikkim | 1 |
| 27. | Mizoram | 1 |
| 28. | Arunachal Pradesh | 1 |
| 29. | Delhi | 3 |
| 30. | Pondicherry | 1 |
| | Nominated(by the President) | 12 |

on the basis of population and not on the basis of the principle of equality of states. In the federal states like the United States, the States enjoy equal representation in the Senate which is the Upper House.

Special Powers of the House

- Under Article 249, if the Rajya Sabha authorizes the Parliament by a special majority of not less than two-third of its members present and voting, to legislate on any subject belonging to state list in national interest, the Parliament can make a law on the subject mentioned in the State list.
- A resolution for the removal of the Vice-President can be initiated only in the Rajya Sabha. The Rajya Sabha should pass such a resolution with effective majority.
- Under Article 312, the Rajya Sabha by a special majority of not less than two-third of its members present and voting, can authorize the Parliament to create or abolish an All India Service.

Officers of the House

Chairman

The Vice-President of India is *ex officio* Chairman of Rajya Sabha. While the office of the Chairman is vacant, or during any period when he acts or discharges the functions of President, the Deputy Chairman of Rajya Sabha performs the duties of the office of the Chairman. If the office of the Deputy Chairman is also vacant, the President appoints a member of the House to perform the duties of the office.

The Chairman presides over Rajya Sabha and regulates its proceedings. He maintains order in the House. He also has the power to adjourn Rajya Sabha and suspend its meeting if there is no quorum. He is the channel of communication between the House and any other outside person or authority. He has to decide under constitutional provisions whether a member of Rajya Sabha has tendered his resignation voluntarily. He has also to decide under the constitutional provisions, question of disqualification on grounds of defection. Under the Rules of Procedure and Conduct of Business in Rajya Sabha, the Chairman admits notices of Questions, Motions, Resolutions, etc.

Federal Features of Rajya Sabha

- The Rajya Sabha represents the States at the Central level and the interest of the States can be protected there.
- The approval of the Rajya Sabha is necessary for the Parliament to legislate on any State subject or to create a new All India Service.
- Rajya Sabha participates in the election and impeachment of the President.
- The Constitutional Amendment Bills can be passed only with the approval of the Rajya Sabha..
- The MPs of Rajya Sabha can also be appointed as ministers.

Non-Federal Features of Rajya Sabha

- The Rajya Sabha has representatives of Delhi and Puducherry which are Union Territories. The Union Territories are under the direct control of the Union government.
- In the Rajya Sabha the States are represented



While presiding over Rajya Sabha, the Chairman has only a casting vote. When a resolution for his removal is under consideration he is neither entitled to preside over the House nor to vote on such a resolution but has a right to speak in or otherwise to take part in such proceedings.

Deputy Chairman

Rajya Sabha elects a Deputy Chairman to perform the functions of the Chairman in case of a vacancy in the office of the Chairman or when the Vice-President is acting as or discharging the functions of the President. He may be removed from office by a resolution of Rajya Sabha moved after fourteen days notice of the intention to move the resolution and passed by a majority of all the then members of the House.

Panel of Vice-Chairmen

There is also a panel of six Vice-Chairmen formed by the Chairman, and in case both the Chairman and the Deputy Chairman are absent, a person from the panel presides. If none of the empanelled members is available, the House elects a person from amongst its members to preside over its sittings.

Importance/ Relevance of the Second chamber

In reply to the felicitations offered to him on his assuming the Office of the Chairman of the Rajya Sabha, Dr. S. Radhakrishnan said in 1952:

"There is a general impression that this House cannot make or unmake government and, therefore, it is a superfluous body. But there are functions which a revising chamber can fulfil fruitfully. Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned it will be open to us to make very valuable contributions and it will depend on our work whether we justify or do not justify this two Chamber system, which is now an integral part of our Constitution. So it is a test to which we are submitted. We are for the first time starting, under the new Parliamentary system, with a Second Chamber in the Centre, and we should try to do every thing in our power to justify to the public of this country that a Second Chamber is essential to prevent hasty legislation."

In the light of this observation it would be instructive to review the role played by the Rajya Sabha in the Indian constitutional system during the last four decades, so as to find out whether it

has been able to live up to the lofty ideals propounded by India's philosopher—statesman and one of her most illustrious sons.

The Rajya Sabha as a Legislative body

Considering that a large part of the legislative business of Parliament is financial, as a House of initiation, the Rajya Sabha's record is not unimpressive. An analysis of the subject matter of the Bills introduced in the Rajya Sabha would reveal that many of them were of immense social, educational, legal, labour, medical and commercial importance. The entire Hindu Law enactments, Abolition of Whipping, Prevention of Corruption, slum Areas (improvement and Clearance), Bills relating to Foreign Marriage, Children-were some of the social measures introduced in the Rajya Sabha. Amongst the Bills relating to labour welfare, initiated in the Rajya Sabha, mention may be made of the Beedi and Cigar Workers (Conditions of Employment) Bill, the Bonded Labour System (abolition) Bill and the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Bill. Similarly, some important Bills in the fields of health (Medical Termination of Pregnancy Bill); education (Copyright Bill, Bills establishing Jawaharlal Nehru University, Pondicherry University and the Indira Gandhi National Open University, and law: the Code of Criminal Procedure Bill); were introduced in the Upper House. Another very important legislation relating to trade and industry which was initiated in the Rajya Sabha was the Monopolies and Restrictive Trade Practices Act, 1969.

As a revising Chamber, the Rajya Sabha has revised a number of Bills. Among the important Bills revised are the Income-tax (Amendment) Bill of 1961 and the National Honour Bill, 1971 wherein some very substantial amendments suggested by the Rajya Sabha were accepted by the Lok Sabha. The Dowry Prohibition Bill was another legislation in which the Rajya Sabha's insistence on its amendments led to the convening of a joint sitting of the two Houses and in that sitting one of the, amendments suggested by the Rajya Sabha was adopted without a division. The Urban Land (Ceiling and Regulation) Bill, 1976 was revised in eight clauses and the schedule. Substantial amendment amounting to major



revisions in the Government of Union Territories (Amendment) Bill, 1977, and the Delhi Administration (Amendment) Bill, 1977, were carried by the Rajya Sabha by divisions. The Special Court Bill saw the Rajya Sabha playing a major revisory role when on March 21, 1979, it made two major amendments of far-reaching importance in the Bill. Similarly the Delhi Apartment Ownership Bill, 1986, the Goa, Daman and Diu Reorganisation Bill, 1987, the Prevention of Corruption Bill, 1988, the Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees) Bill, 1988, the Commissions of Inquiry (Amendment) Bill, 1990, The Prasar Bharati (Broadcasting Corporation of India) Bill, 1990, the Code of Criminal Procedure (Amendment) Bill, 1990 and the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1991, Advocates (Amendment) Bill, 1992, Passports (Amendment) Bill, 1993 were also amended by the Rajya Sabha in the recent past.

In regard to Constitution Amendment Bills, as already stated, the Constitution places both the Houses on par. Though it is true that most of the Bills to amend the Constitution had been introduced in the Lok Sabha, both Houses have got equal power with regard to the amending process and in order to amend the Constitution, a Bill must be passed by both the Houses of Parliament separately and there is no provision for a joint sitting to resolve a disagreement between the two over a Constitution amendment Bill. On four occasions the Rajya Sabha asserted its role as a constituent body. The Constitution (Twenty-fourth Amendment) Bill, 1970, which was intended to abolish privy purses and which was passed by an overwhelming majority in the Lok Sabha was defeated in the Rajya Sabha by only a fraction of a vote and consequently the measure fell through. In the Constitution (Forty-fifth Amendment) Bill, 1978 as passed by the Lok Sabha, the Rajya Sabha deleted as many as five vital clauses and the Lok Sabha later agreed to the deletions made by the Rajya Sabha. It became the Constitution Forty-fourth Amendment Act 1978. Similarly, the Constitution (Sixty-fourth Amendment) Bill, 1989, and the Constitution (Sixty-fifth Amendment) Bill, 1989, though passed by the Lok Sabha, fell through in the Rajya Sabha. Those Bills sought to provide more autonomy,

both financial and administrative to the Village Panchayats and Nagar Palikas, respectively.

Some of the important Constitution Amendment Bills introduced in Rajya Sabha are following:

- The Constitution (Twenty-first Amendment) Bill, 1967. It aimed to add Sindhi as a language in the Eighth Schedule.
- The Constitution (Fifty-ninth Amendment) Bill. This Bill was about the Emergency in Punjab.
- The Constitution (Sixty-second Amendment) Bill, 1989. The Bill sought to amend Article 334 of the Constitution proposing to continue reservation for a further period of ten years beyond January 26, 1990, for the members of Scheduled Caste's and Scheduled Tribes in the legislatures.
- The Constitution (Seventy-sixth Amendment) Bill, 1992. It aimed at providing representation to the legislators of the legislatures in the Union Territories in the matter of election of the President.
- The Constitution (Eighty-first Amendment) Bill, 1994 The Bill sought to include land reform laws of various States in the Ninth Schedule.
- The Constitution (Eighty-sixth Amendment) Bill, 1999. The Bill sought to strengthen the Panchayati Raj Institutions.

Rajya Sabha's role in scrutinising performance of the Executive or ventilating public grievances

How effective and assertive the Rajya Sabha is in the matter of reflecting people's problems and highlighting public issues, can be seen by watching the House during the 'Question Hour' any day. Through the device of questions, important matter on which public mind is agitated are raised. This device has been used not only to elicit information and ventilate public grievances but also to goad and force Government to admit executive lapses or to investigate into them. It has been able to secure important assurances and policy statements. some cases and compelled the Government to review their.

To illustrate, subjects like cases of corruption against Chief Ministers/Ministers In States, loans



advanced to the Jayanti Shipping Company, some LIC deals, activities of some business houses etc. were brought to the front in the Rajya Sabha during the Question Hours. The raising of questions had resulted in the appointment of commissions/courts of inquiry into policies and programmes in some of them. The license scandal of Tulmohan Ram was raised first in the Rajya Sabha during the question time. Needless to say that the Question Hour has, played a very significant role in the working of the Rajya Sabha.

Another device which has become popular and Purposeful is the Calling Attention This procedure has acquired a distinct importance in the Rajya Sabha due to concerted efforts on the part of its members to make the best use, of it in the absence of the provision for adjournment motion Due to the practice of calling one member from each party to speak on the subject of calling attention, the discussion becomes an occasion for political parties to register their views on various issues and not merely a device to secure a statement from the Government Hence, in the Rajya Sabha, unlike the other House, the subject is discussed threadbare. Many times the discussion has lasted more than two hours converting it into a mini debate. For instance, in December, 1983, the House discussed a calling attention on the re-promulgation of Ordinances in some States, This provided a good opportunity to the House to discuss the Constitutional aspects of the phenomenon, Again in December, 1985 there was a calling attention regarding the delay in assenting to Bills passed by the State Legislatures and reserved for consideration of the President under Article 200 of the Constitution Both the subjects were discussed in the Rajya Sabha for the first time and highlighted the constitutional issues involved.

More recently, some issues of vital importance, such as, deepening crisis in the handloom industry, situation arising out of signing of an agreement between Doordarshan and CNN, the Government's decision to handover Bailadilla mines being run by the National Mineral Development Corporation to a Calcutta based private firm, steep fall in the value of rupee against dollar, etc. were discussed in the Rajya Sabha through the device of calling attention.

The device of "special mention", which has come to be established by practice and convention

without having any specific rule for the purpose in the Rajya Sabha Rules has acquired a significant place. It is a convenient mechanism to highlight or to bring to the notice of the House and the Government, matters of urgent public importance for the raising of which a Member may not get an early opportunity by tabling a Calling Attention Notice, Short Notice Question or a Short Duration Discussion, etc. The added advantage is that Members get replies to their special mentions from Ministers individually and know the facts and react on of the Government.

Apart from these, there are such well established procedural devices as short duration discussion', 'half-an-hour discussion', motions', etc. which have been used in the Rajya Sabha from time to time to raise issues of public importance and thereby making the Rajya Sabha fulfill its watch-dog functions, assess the performance of the Executive, oversee the administration and ventilate public grievances and reflect popular will.

Role of the Rajya Sabha through Private Members

The Procedural devices, such as questions, calling attention, etc. are no doubt employed only by a member who is not a Minister. But under the Rules, two and a half hours of every Friday when the House is in Session are allotted alternatively to Bills and Resolutions to be initiated by a Private Member. Under this procedure a number of Bills have been introduced and resolutions moved since the inception of the Rajya Sabha in 1952. Upto the end of 169th Session (1993) 803 Private Members' Bills were introduced out of which 215 were discussed Although so far only five Bills—notable among them being the Indian Marine Insurance Bill, 1959 and the Indian Penal Code (Amendment) Bill, 1963—have gone into the statute book at the initiative of Members of the Rajya Sabha, the measure of success of a Private Member in the legislative field should not be reckoned in terms of the number of Bills becoming Acts of Parliament. The real merit of the procedure of Private Members' Bills lies in the opportunity it provides to members to actively participate in lawmaking, They get an opportunity to discuss ideas which may be in advance of time. Some of the Bills may prompt and promote future legislation as happened in the case of the



Prevention of Cruelty to Animals Bill, which was initiated by a Private Member but on Government's assurance to appoint a Committee to go into the measure, the Bill was withdrawn. Later on the Government brought forth a comprehensive Bill on the subject.

The same can be said about Resolutions A number of Resolution " have been moved during all these years, on various matters of general public interest. Some of the Resolutions adopted are regarding prohibition of production of undesirable films, widening the scope of NCC, suspension of nuclear tests, environmental improvement, etc. Here mention may be made of the Resolution on abolition of privy purses which was adopted by the Rajya Sabha on December 19, 1969, even before the Government had brought the Constitution Amendment Bill, which as already stated, got defeated in, the Rajya Sabha by a fraction of a vote. Another Resolution which was discussed in 1958 related to abolition of capital punishment. It was withdrawn by the mover who while doing so observed "The purpose of my resolution is served, 'the ripples are created and it is in the air", In 1961 again a Similar Resolution was moved but negatived. Two years later in answer to a question, the Government gave an assurance that the debate of the 1961 Resolution would be forwarded to the Law Commission. This was done and the Law Commission gave its 35th Report on the subject.

Rajya Sabha as a Debating Chamber

The Bryce Conference had observed that it would be more useful if discussions on important questions were carried on in a House where the results of such discussions would not involve the fall of the Government. Shri Gopalswami Ayyangar, one of the founding fathers of the Constitution of India expressed the opinion that "the most that you would expect the Second Chamber to do is perhaps to hold dignified debates on important issues". It is almost universally accepted that the debates in the Rajya Sabha, more particularly the special debates on subjects of greater national importance, have been of a high order and better informed. Though the Rajya Sabha does not vote on the Demands for Grants, a new practice has been started since 1970, to discuss the working of a few selected Ministries every year. Since these debates on Ministries entail

no risks for the Government, their nature, character and efficacy differs vitally from those in the other House. The discussions are thorough, dispassionate and non-partisan. Through scintillating debates the Rajya Sabha has contributed to the glory of our Parliamentary democracy. It is therefore, correct to say that despite built in limitations, the Rajya Sabha has been successful in evolving a distinct role for itself.

Rajya Sabha as a Federal Chamber

But for 12 members nominated by the President for their special knowledge or experience, the remaining members are elected by the elected members of State Assemblies by a system of proportional representation by means of the single transferable vote. Although equality of seats for each State has not been provided for, the Rajya Sabha is generally taken to represent the constituent States. The powers it enjoys as representing the States' interest singles it out as a Second Chamber in a Federation. These powers, as already mentioned, relate to the passing of resolutions (i) to enable Parliament to make a law on a State subject for the whole of India or any part thereof (Article 249), (ii) to enable Parliament to create by law an All-India Service (Article 312), and (iii) to extend the life of a Proclamation in respect of a State under President's Rule in the event of the dissolution of the Lok Sabha (Article 356).

Under Article 249, Provisional Parliament had passed a resolution in 1950 and continued it by another resolution in 1951, conferring power on Parliament to legislate with respect to (i) trade and commerce within the State, and (ii) production, supply and distribution of goods. Accordingly Parliament enacted the Supply and Prices of Goods Act, 1950. In order to continue the same further, a resolution was passed by the Rajya Sabha (which had by that time come into being under the Constitution) in July, 1952. For the first time after its constitution, the Rajya Sabha adopted in August, 1986 by a special majority a resolution under Article 249, conferring power on Parliament to make laws to deal with terrorism in Punjab. The Indian Service of Engineers, the Indian Medical and Health Services and the, Indian Forest Service were created on the basis of the resolution passed by the Rajya Sabha in 1961 and the Indian Agricultural Service and the Indian Educational



Service in pursuance of a resolution passed in 1965. As regards the extension of life of a Proclamation in respect of a State under President's Rule, a two-day Special Session of the Rajya Sabha was called on 28 February and 1 March, 1977, to approve the continuance of the Proclamations issued by the President in respect of Nagaland and Tamil Nadu since the Lok Sabha had already been dissolved. Again on 3 and 4 June, 1991, a Session of Rajya Sabha was convened due to the dissolution of Lok Sabha, to approve the Proclamation issued by the President under Article 356 of the Constitution, in relation to the State of Haryana.

CONCLUSION

From the above description of the role and achievements of the Rajya Sabha, it can be said without fear of contradiction that the Rajya Sabha is fulfilling its purpose as envisaged by the founding fathers of the Constitution. Since the basic concept and the institutions of Parliamentary democracy were imported into this country as a result of the British rule in India, it is sometimes thought that the Indian Parliament is nothing but a replica of the Parliament of the United Kingdom and that in composition, power and functions, the Rajya Sabha stands on an equal footing with that of the House of Lords in England. This is an entirely misconceived notion and an examination of the composition, functions and duties of the Rajya Sabha will lead to the conclusion that it bears very little resemblance with the House of Lords either in composition or function of importance. As a matter of fact, the Rajya Sabha is one of the few active Upper Houses in the world. It is not as powerful as the Senate in the United States of America but it is certainly not as ineffective as the House of Lords.

As a legislative chamber, it has acquitted itself well in its revisory role. In the performance of watchdog functions, it has at times even excelled the Lower House—the Lok Sabha. Despite some functional constraints the Rajya Sabha has kept its constant guard on the national and general public interest. This has made it, at times, the most boisterous and excited House. Although deprived of the power to throw out the Government or to formally express its lack of confidence in it, the Rajya Sabha has shown on many occasions its moral prowess and the strength of its collective

will to bring the Executive to its knees, to expose corruption, irregularities and malpractices in administration. The proceedings of the House are replete with glaring and glorious instances in the non-legislative sphere of the Rajya Sabha's irrepressible will and considerable power of intervention in matters conferring public life and general good of the people. It has never been the defender of the vested interests or the entrenched classes. It has always displayed ample and sustained concern for the less privileged, the oppressed and the deprived. It has made full use of all the weapons available in the Parliamentary armory such as questions, calling attention, etc., for the purpose.

It is difficult to recapitulate all the achievements and work done by the Rajya Sabha in nearly six decades. But there is no gain saying that as a legislative chamber, the Rajya Sabha has developed a vigorous and unique personality of its own. As a debating House, it has pulsated the public opinion. As a nation's apex Parliamentary institution, it has tried to promote and foster feelings of national unity and integrity. By discussions and decisions, the Rajya Sabha has contributed to improving the quality of life of our people and strengthening their faith in our Parliamentary democracy.

THE HOUSE OF PEOPLE (LOK SABHA)

Lok Sabha, as the name itself signifies, is the body of representatives of the people. Its members are directly elected, normally once in every five years by the adult population who are eligible to vote. The minimum qualifying age for membership of the House is 25 years. The present membership of Lok Sabha is 545.

Composition of the House of the People

Article 81 (1) provides that Lok Sabha or the House of the People shall consist of—

- (a) Not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and
- (b) Not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

The above composition is subject to the provisions of Article 331, which provides that if the President



is satisfied that the Anglo-Indian Community is not adequately represented in the Lok Sabha, he may nominate not more than two persons belonging to the Community to the Lok Sabha.

Note: This provision was originally to operate till 1960.

Table 2
Distribution of seats among the different States and Union Territories

| States and Union Territories | Allotted seats in Lok Sabha |
|------------------------------|-----------------------------|
| Andhra Pradesh | 42 |
| Arunachal Pradesh | 02 |
| Assam | 14 |
| Bihar | 40 |
| Chhattisgarh | 11 |
| Goa | 02 |
| Gujarat | 26 |
| Haryana | 10 |
| Himachal Pradesh | 04 |
| Jammu & Kashmir | 06 |
| Jharkhand | 14 |
| Karnataka | 28 |
| Kerala | 20 |
| Madhya Pradesh | 29 |
| Maharashtra | 48 |
| Manipur | 02 |
| Meghalaya | 02 |
| Mizoram | 01 |
| Nagaland | 01 |
| Orissa | 21 |
| Punjab | 13 |
| Rajasthan | 25 |
| Sikkim | 01 |
| Tamil Nadu | 39 |

| | |
|--|----|
| Tripura | 02 |
| Uttaranchal | 05 |
| Uttar Pradesh | 80 |
| West Bengal | 42 |
| Andaman & Nicobar Islands | 01 |
| Chandigarh | 01 |
| Dadra & Nagar Haveli | 01 |
| Daman & Diu | 01 |
| NCT of Delhi | 07 |
| Lakshadweep | 01 |
| Puducherry | 01 |
| Anglo-Indians ((If nominated by the President under Article 331 of the Constitution) | 02 |

Officers of the Lok Sabha

The office of the Speaker occupies a pivotal position in our Parliamentary democracy. It has been said of the **office** of the Speaker that while the members of Parliament represent the individual constituencies, the Speaker represents the full authority of the House itself. He symbolises the dignity and power of the House over which he is presiding. Therefore, it is expected that the holder of this office of high dignity has to be one who can represent the House in all its manifestations.

The responsibility entrusted to the Speaker is so onerous that he cannot afford to overlook any aspect of Parliamentary life. His actions come under close scrutiny in the House and are also widely reported in the mass media. With the televising of proceedings of Parliament, the small screen brings to millions of households in the country the day-to-day developments in the House making the Speaker's task all the more important.

Even though the Speaker speaks rarely in the House, when he does, he speaks for the House as a whole. The Speaker is looked upon as the true guardian of the traditions of Parliamentary democracy. His unique position is illustrated by the fact that he is placed very high in the Warrant of Precedence in our country, standing next only



to the President, the Vice-President and the Prime Minister. In India, through the Constitution of the land, through the Rules of Procedure and Conduct of Business in Lok Sabha and through the practices and conventions, adequate powers are vested in the office of the Speaker to help him in the smooth conduct of the Parliamentary proceedings and for protecting the independence and impartiality of the office. The Constitution of India provides that the Speaker's salary and allowances are not to be voted by Parliament and are to be charged on the Consolidated Fund of India.

Term of Office

The Speaker holds office from the date of his election till immediately before the first meeting of the Lok Sabha after the dissolution of the one to which he was elected. He is eligible for re-election. On the dissolution of the Lok Sabha, although the Speaker ceases to be a member of the House, he does not vacate his office. The Speaker may, at any time, resign from office by writing under his hand to the Deputy Speaker. The Speaker can be removed from office only on a resolution of the House passed by a majority of all the then members of the House. Such a resolution has to satisfy some conditions like: it should be specific with respect to the charges and it should not contain arguments, inferences, ironical expressions, imputations or defamatory statements, etc. Not only these, discussions should be confined to charges referred to in the resolution. It is also mandatory to give a minimum of 14 days notice of the intention to move the resolution.

Election of Speaker

In the Lok Sabha, the lower House of the Indian Parliament, both Presiding Officers—the Speaker and the Deputy Speaker- are elected from among its members by a simple majority of members present and voting in the House. As such, no specific qualifications are prescribed for being elected the Speaker. The Constitution only requires that he should be a member of the House. But an understanding of the Constitution and the laws of the country and the rules of procedure and conventions of Parliament is considered a major asset for the holder of the office of the Speaker. The election of the Speaker of the Lok

Sabha is an important event in the life of the House. One of the first acts of a newly constituted House is to elect the Speaker. Usually, a member belonging to the ruling party is elected the Speaker. A healthy convention, however, has evolved over the years whereby the ruling party nominates its candidate after informal consultations with the Leaders of other Parties and Groups in the House. This convention ensures that once elected, the Speaker enjoys the respect of all sections of the House. There are also instances when members not belonging to the ruling party or coalition were elected to the office of the Speaker. Once a decision on the candidate is taken, his name is normally proposed by the Prime Minister or the Minister of Parliamentary Affairs. If more than one notice is received, these are entered in the order of receipt. The Speaker **pro term** presides over the sitting in which the Speaker is elected, if it is a newly constituted House. If the election falls later in the life of a Lok Sabha the Deputy Speaker presides. The motions which are moved and duly seconded are put one by one in the order in which they are moved, and decided, if necessary, by division. If any motion is carried, the person presiding shall, without putting the latter motions, declare that the member proposed in the motion which has been carried has been chosen as the Speaker of the House. After the results are announced, the Speaker-elect is conducted to the Chair by the Prime Minister and the Leader of the Opposition. He is then felicitated by Leaders of all Political Parties and Groups in the House to which he replies in a thanks-giving speech. And from then the new Speaker takes over.

Role and Functions of the Speaker

Speaker in the Chair

In the Lok Sabha Chamber, the Speaker's Chair is distinctively placed and, from his seat, he gets a commanding view of the entire House. Insofar as the proceedings are concerned, he is guided by the provisions of the Constitution and the Rules of Procedure and Conduct of Business in Lok Sabha. He also benefits from the Directions issued by his predecessors which are compiled periodically. Besides, he is assisted by the Secretary-General of the Lok Sabha and senior officers of the Secretariat on Parliamentary activities and on matters of practice and procedure. In the absence of the



Speaker, the Deputy Speaker discharges his functions. A member from the Panel of Chairmen presides over the House in the absence of both the Speaker and the Deputy Speaker.

The Speaker has extensive functions to perform in matters administrative, judicial and regulatory, falling under his domain. He enjoys vast authority under the Constitution and the Rules, as well as inherently. As the conventional head of the Lok Sabha and as its principal spokesman, the Speaker represents its collective voice. Of course, he is the ultimate arbiter and interpreter of those provisions which relate to the functioning of the House. His decisions are final and binding and ordinarily cannot be questioned, challenged or criticized.

Regulating the Business of the House

The final authority for adopting rules for regulating its procedure rests with each House, but a perusal of the rules of the Indian Parliament would indicate that the Presiding Officers in the two Houses are given vast powers by the rules. It is the Presiding Officer who decides the admissibility of a Question; it is he who decides the forms in which amendments may be moved to the Motion of Thanks to the President's Address. With regard to moving amendments to a Bill, the permission of the Chair is required. If a Bill is pending before the House, it is the Speaker who decides whether he should allow amendments to be moved to various clauses of the Bill or not. As regards regulating discussions in the House, it is the Speaker who decides as to when a member shall speak and how long he shall speak. It is left to him to ask a member to discontinue his speech or even decide that what a particular member said may not go on record as part of the proceedings. If he is satisfied, the Speaker can direct a member to withdraw from the House for a specific period of time. A member who flouts his orders or directions may be named by the Speaker and in such cases, he may have to withdraw from the House. The Speaker is the guardian of the rights and privileges of the House, its Committees and members. It depends solely on the Speaker to refer any question of privilege to the Committee of Privileges for examination, investigation and report. It is through him that the decisions of the House are communicated to outside individuals and authorities. It is the Speaker who decides the

form and manner in which the proceedings of the House is published. He also issues warrants to execute the orders of the House, wherever necessary, and delivers reprimands on behalf of the House. The entire Parliamentary Estate is under the authority of the Speaker. When a decision of the House is to be ascertained on a motion made by a member, the question is put by the Speaker before the House to obtain the decision. On questions of points of order, it is he who finally decides whether the matter raised is in order or not.

The Speaker also has certain residuary powers under the Rules of Procedure. All matters which are not specifically provided under the rules and all questions relating to the working of the rules are regulated by him. In exercise of this power and under his inherent powers, the Speaker issues from time to time directions which are generally treated as **sacrosanct** as the Rules of Procedure. On matters regarding interpretation of constitutional provisions relating to the House or the Rules of Procedure, he often gives rulings which are respected by members and are binding in nature. Under the Constitution, the Speaker enjoys a special position insofar as certain matters pertaining to the relations between the two Houses of Parliament are concerned. He certifies Money Bills and finally decides what are money matters by reason of the Lok Sabha's overriding powers in financial matters. It is the Speaker of the Lok Sabha who presides over joint sittings called in the event of disagreement between the two Houses on a legislative measure. As regards recognition of Parliamentary parties it is the Speaker who lays down the necessary guidelines for such recognition. It is he who decides on granting recognition to the Leader of the Opposition in the Lok Sabha. Following the 52nd Constitution amendment, the Speaker is vested with the power relating to the disqualification of a member of the Lok Sabha on grounds of defection. The Speaker makes obituary references in the House, formal references to important national and international events and the valedictory address at the conclusion of every Session of the Lok Sabha and also when the term of the House expires. Though himself a member of the House, the Speaker does not vote in the House except on those rare occasions when there



is a tie at the end of a decision. Till date, the Speaker of the Lok Sabha has not been called upon to exercise this unique casting vote.

Speaker and the Committees

The Committees of the House function under the overall direction of the Speaker. All such Committees are constituted by him or by the House. The Chairmen of all Parliamentary Committees are nominated by him. Any procedural problems in the functioning of the Committees are referred to him for directions. Committees like the Business Advisory Committee, the General Purposes Committee and the Rules Committee work directly under his Chairmanship.

Speaker and Members

The Speaker is at once a member of the House as also its Presiding Officer. It is always the Speaker's task to ensure that Parliamentary decorum is maintained under all circumstances. For this he is invested with wide-ranging disciplinary powers under the rules. On the one hand, he strives to give adequate opportunities to all sections of the House to ventilate their views and on the other he has to preserve the dignity of the House. The Speaker's position in such situations is certainly unenviable. It is indeed a delicate task which calls for diplomacy, firmness, persuasion and perseverance of a high order. The Speaker also keeps open a variety of informal channels of communication with individual members and the Leaders of Parties and Groups in the Lok Sabha. He interacts with Leaders of Parliamentary Parties at luncheon meetings on the eve of every Session. These are important occasions when he gets to know the mood of various parties on a wide spectrum of issues. The Speaker has to see to it that Parliament functions the way that it is intended to under the Constitution. All in all, it is always a tight-rope walk for the Speaker.

Speaker and Inter-Parliamentary Relations

The Speaker has certain other functions to perform as the head of the Lok Sabha. He is the *ex officio* President of the Indian Parliamentary Group (IPG), set up in 1949, which functions as the National Group of the Inter-Parliamentary Union (IPU) and the Main Branch of the Commonwealth Parliamentary Association (CPA). In that capacity,

members of various Indian Parliamentary Delegations going abroad are nominated by him after consulting the Chairman of the Rajya Sabha. Most often, the Speaker himself leads such Delegations. Besides, he is the Chairman of the Conference of Presiding Officers of Legislative Bodies in India.

Speaker's Administrative Role

The Speaker is the head of the Lok Sabha Secretariat which functions under his ultimate control and direction. The Speaker's authority over the Secretariat staff of the House, its precincts and its security arrangements is supreme. All strangers, visitors and press correspondents are subject to his discipline and orders and any breach of order may be punished by means of exclusion from the precincts of the Parliament House or stoppage of admission tickets to the galleries for definite or indefinite period, or in more serious cases, dealt with as a contempt or breach of privilege. No alteration or addition can be made in the Parliament House and no new structure can be erected in the Parliament Estate without the Speaker's permission.

Conclusion

The office of the Speaker in India is a living and dynamic institution which deals with the actual needs and problems of Parliament in the performance of its functions. The Speaker is the constitutional and ceremonial head of the House. He is the principal spokesman of the House. It is in him that the responsibility of conducting the business of the House in a manner befitting the place of the institution in a representative democracy is invested. The founding fathers of our Constitution had recognised the importance of this office in our democratic set-up and it was this recognition that guided them in establishing this office as one of the prominent and dignified ones in the scheme of governance of the country.

Pandit Jawaharlal Nehru, one of the chief architects of India's freedom and a moving force behind its Constitution, placed the office of the Speaker in India in the proper context when he said:

The Speaker represents the House. He represents the dignity of the House, the freedom of the House and because the House represents the nation, in a particular



way, the Speaker becomes a symbol of nation's freedom and liberty. Therefore, it is right that, that should be an honoured position, a free position and should be occupied always by men of outstanding ability and impartiality.

This would explain why this office still remains one of the most crucial ones in the life of every Lok Sabha.

PROTEM SPEAKER

The Protem Speaker is appointed by the President and is the member of the newly elected Lok Sabha. Generally the senior most member of the Lok Sabha is appointed. The Protem Speaker is conducted the oath of office by the President. He presides over the first session of the newly elected Lok Sabha and remains in office till the Speaker assumes office.

The Protem Speaker conducts the oath for the newly elected members of the Lok Sabha. He conducts the election of the Speaker of the Lok Sabha. He has the right of casting vote.

On the constitution of 14th Lok Sabha, Shri Somnath Chaterjee was appointed by the President as Speaker Protem to perform the duties of the office of Speaker from the commencement of sitting of 14th Lok Sabha on 2 June, 2004 until the commencement of sitting on 4 June, 2004. As Shri Somnath Chaterjee became a candidate for the post of Speaker, Lok Sabha, Hon'ble President, by his another order, appointed Shri Balasaheb Vikhe Patil as Speaker Pro Tem to perform the duties of the office of the Speaker from the commencement of the sitting of Lok Sabha on 4 June, 2004 till the election of Speaker.

Special Powers of Lok Sabha

1. A Confidence motion and a No Confidence motion can be introduced and passed only in the Lok Sabha.
2. A money bill and financial bill can be introduced only in the Lok Sabha.
3. Special Power under Article 352: Lok Sabha alone has the power to discontinue National Emergency in a special session.

A Comparison of the Rajya Sabha and the Lok Sabha

The Rajya Sabha and the Lok Sabha together with

the President of India constitute 'Parliament of India'. The strength of the Rajya Sabha has been fixed at the maximum of 250 members. The total number of members in the Rajya Sabha, as presently constituted is 245 including the 12 nominated members. The allocation of seats to the various States is provided in the Fourth Schedule of the Constitution. Unlike the Lok Sabha the Rajya Sabha is not dissolved as a body, but one-third of its members retire every two years and their place is taken by new members. The Vice-President of India (who is elected by an electoral college consisting of members of both Houses) is the ex-officio Chairman of the Rajya Sabha. When the Vice-President acts as the President of India or otherwise performs the duties of the President, the duties of the Chairman of the Rajya Sabha are performed by the Deputy Chairman who is elected by the members of the Rajya Sabha from amongst themselves. The Deputy Chairman presides over the sittings of the Rajya Sabha in the absence of the Chairman.

Except in certain financial matters which are to be the sole concern of the Lok Sabha, Rajya Sabha enjoys co-equal status in all respects. A Money Bill cannot be introduced in the Rajya Sabha. It has to be introduced only in the Lok Sabha and after it is passed by that House, it has to be transmitted to the Rajya Sabha for its recommendation. The Lok Sabha has the power of either accepting or rejecting the recommendations, if any, made by the Rajya Sabha. If a Money Bill is not returned by the Rajya Sabha within fourteen days of its receipt to the Lok Sabha, it will be deemed to have been passed by both Houses after the expiry of the said period. Certain category of Financial Bills also cannot be introduced in the Rajya Sabha but there is no other limitation on the power of the Rajya Sabha with regard to such Bills and the Rajya Sabha has full powers to reject or amend a Financial Bill as it has in respect of any Bill other than a Money Bill. From this it will not, however, be correct to assume that the Rajya Sabha has nothing to do with any matters relating to finance. The Annual Budget of the Government of India has to be laid before the Rajya Sabha as well and members have the right to discuss the same like the Lok Sabha. Though the Rajya Sabha does not vote or. Demands for Grants of various Ministries—a privilege exclusively reserved for the



Lok Sabha-no money can be withdrawn from the Consolidated Fund of India unless the Appropriation Bill is passed by the Rajya Sabha also. Similarly, the Annual Finance Bill also passes through the Rajya Sabha. In the legislative field, except in regard to financial legislation, the Rajya Sabha enjoys real and substantial power, both as an originating chamber and as a revising chamber. The Constitution provides that in case of Bills other than Money Bills, final disagreement between the two Houses should be resolved through a joint sitting of the two Houses.

Under the Constitution, the Rajya Sabha possesses equal authority and power with regard to the amendment to the Constitution-there being no provision for a joint sitting with regard to such a Bill if a deadlock were to arise between the Lok Sabha and the Rajya Sabha. In other words, a Bill to amend the Constitution has to be passed by both the Houses of Parliament separately and in case one House fails to do so, the Bill fall through.

In addition, there are two special powers of the Rajya Sabha under the Constitution, Article 249 provides that the Rajya Sabha may pass resolution, by a majority of not less than two-thirds of the Members present and voting, to the effect that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List. If such a resolution is adopted, Parliament will be authorised, to make laws on the subject specified in the resolution, for the whole or any part of the territory of India. Such a resolution will remain in force for such period, not exceeding one year, as may be specified therein, but this period can be extended by one year at a time by passing further resolution.

Another exclusive power of the Rajya Sabha is contained in Article 312 of the Constitution whereunder if the Rajya Sabha passes a resolution by a majority of not less than two-thirds of the members present and voting declaring that it is necessary or expedient in the national interest to create one or more All India Services common to the Union and the States, Parliament will have the power to create by law such services.

Yet another special power of the Rajya Sabha relates to the Proclamation of Emergency. The proviso to clause (4) of Article 352 of the Constitution, inter

alia, provides that if a Proclamation of Emergency is issued when the House of the People remains dissolved and a resolution approving the Proclamation is passed by the Council of States the Proclamation, would be legally effective upto a maximum period of 30 days from the date on which the House of the People first sits after its reconstitution. This provision, therefore, appears to suggest that there might be an occasion when the Council of States could be called into a session at a time when the House of People stands dissolved. The proviso to clause (3) of Article 356 of the Constitution which relates to the Proclamation to be issued by the President in case of failure of constitutional machinery in a State, contains a similar stipulation.

There are some important matters in respect of which the Constitution has placed both Houses of Parliament on a footing of equality as may be seen from the following list:

1. Equal right with the Lok Sabha' in the election and impeachment of the President (Articles 54 and 61).
2. Equal right with the Lok Sabha in the election of the Vice-President (Article 66);
3. Equal right with the Lok Sabha to make law defining Parliamentary privileges and also to punish for contempt (Article 105);
4. Equal right with the Lok Sabha to approve the Proclamation of Emergency (issued under Article 352) Proclamations regarding failure of the Constitutional machinery in States (issued under Article 356) and even a sole right in certain circumstances; and
5. Equal right with the Lok Sabha to receive reports and papers from various statutory authorities, namely:
 - (a) Annual Financial Statement [Article 112(1)];
 - (b) Audit Reports from the Comptroller and Auditor General of India [Article 151(1)];
 - (c) Reports of the Union Public Service Commission. [Article 323(1)];
 - (d) Reports of the Special Officer for the Scheduled Castes and Scheduled Tribes [Article 338(2)];



- (e) Report of the Commission to investigate the conditions of the Backward Classes [Article 340(3)];
- (f) Report of the Special Officer for Linguistic Minorities [Article 350 B(2)].

Sessions of the Parliament

Article 85 provides for the Sessions of Parliament, prorogation and dissolution

Article 85(1) holds that the President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

According to Article 85(2) The President may from time to time—

- (a) prorogue the Houses or either House;
- (b) dissolve the House of the People.

Normally, three Sessions of Parliament are held in a year: (i) Budget Session (February-May); (ii) Monsoon Session (July-August); and (iii) Winter Session (November-December). The Budget session is the first session of the year. It is also the most important session as the budget is presented and passed in the session. The President addresses the joint session of both the Houses of the Parliament at the beginning of the session.

Apart from these three sessions, special.

Vacation of Seats

Article 101 provides for Vacation of seats.

Article 101(1) provides that no person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

Article 101(2) No person shall be a member both of Parliament and of a House of the Legislature of a State, and if a person is chosen a member both of Parliament and of a House of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

Article 101(3) states that if a member of either House of Parliament—

- (a) becomes subject to any of the disqualifications mentioned in clause (1) or clause (2) of Article 102, or
- (b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant:

Article 101(4) states that if for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

(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

Article 102 provides for the disqualifications from membership.

Article 102 (1) states that a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;
- (e) if he is so disqualified by or under any law made by Parliament.

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

Article 102 (2) states that a person shall be disqualified for being a member of either House of



Parliament if he is so disqualified under the Tenth Schedule

Article 103 deals with the provision in regard to the decision on questions as to disqualifications of members.

Article 103(1) states that if any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of Article 102, the question shall be referred for the decision of the President and his decision shall be final.

Article 103(2) states that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

Parliamentary Privileges

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of Parliament and by members of each House individually, without which they could not discharge their functions, efficiently and effectively, and which exceed those possessed by other bodies or individuals. When any of these rights and immunities, both of the members, individually, and of the assembly in its collective capacity which are known by the general name of privileges, are disregarded or attacked by any individual or authority, the offence is called a breach of privilege, and is punishable under the law of Parliament. Articles 105/194 of the Constitution deal with the powers, privileges and immunities of Members of Parliament/State Legislatures and their House, Members and Committees. Each House also claims the right to punish actions which, while not breaches of any specific privilege, are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its officers or its members. Such actions, though called "breaches of privilege" are more properly distinguished as "contempts".

Article 105 deals with the Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.

Article 105 (1) holds that subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

Article 105(2) states that no member of Parliament shall be liable to any proceedings in any court in respect of any thing 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.

Art. 105 confers two types of privileges and immunities to the Members of Parliament:

1. In his individual capacity
2. Privilege of the House

In His Individual Capacity

1. Freedom of Speech and Expression: - The members of the Parliament enjoy Freedom of speech and expression much wider than enjoyed by the citizens under Article 19 (1) (a). The M.P is completely protected from any action in a court of law for whatever he has said, spoken or revealed in the house but the M.P's freedom is subjected only to the rules and procedures of the house of which he is a member. No discussion can take place on the conduct of a judge of Supreme Court and High Court except on a motion seeking his removal.
2. Freedom from arrest: - A Member of Parliament can be arrested 40 days before the beginning of session of Parliament and after the lapse of 40 days of the end of the session as his duties as Member of Parliament should not be disturbed. It is applied only in case of civil cases. A Member of Parliament can be arrested under the Preventive Detention Law, criminal laws and contempt of court proceedings. If he is arrested under any such law the presiding officer of the house shall be informed.
3. Freedom from jury service: - A Member of Parliament cannot be compelled to stand as a witness in any court of law when the Parliament is in session.

Power of the House

The Parliament has the power to exclude outsiders from its proceeding. It has the power to prohibit the publication of the proceedings. It has the power to punish outsiders and members for its contempt.



LEGISLATIVE PROCEDURE

There are four categories of Bills which are passed by the Parliament:

1. Ordinary bill
2. Money bill.
3. Financial bill
4. Constitutional Amendment bill.

Ordinary Bill: A bill other than a money bill, financial bill and constitutional amendment bill is termed as Ordinary bill.

An ordinary bill can be introduced in either house of the Parliament. Except a bill under Article 3, none of the ordinary bills require the prior recommendation of the President. Both the houses have got equal legislature jurisdiction. In case of a dead lock the President can convene a joint session of the Parliament.

Ordinary bill is passed by a simple majority. After the passage of the bill, it is presented to the President and he may send the bill for the reconsideration of Parliament only for once.

Money Bill: Article 110 defines a "Money Bill".

According to Article 110(1) 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).

Procedure for the passage of a Money Bill

Article 109 deals with Special procedure in respect of Money Bills— According to Article 109(1) A Money Bill shall not be introduced in the Council of States.

Article 109 (2) holds that after a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

Article 109(3) holds that if the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

Article 109 (4) holds that if the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

Article 109(5) holds that If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People

According to **Article 111**, the president is bound to sign the money bill.

FINANCIAL BILL: A financial bill is one which apart from including one or more money matters mentioned under Article 110 also includes the non money matters.



A financial bill can be introduced only in the Lok Sabha with the prior recommendation of President. Both the houses have equal legislative jurisdiction. It is a blend of money bill and ordinary bill. It is passed by a simple majority. The president may send the bill for the reconsideration of the Parliament only for once.

CONSTITUTIONAL AMENDMENT BILL: A bill introduced under Article 368 for change of the Constitutional provisions is known as Constitution amendment bill. It can be introduced in either house of the Parliament. It has to be passed by a special majority of not less than 2/3 of the members present and voting and the absolute majority of both the houses of the Parliament sitting separately. The president is bound to give his assent.

Provisions as to introduction and passing of Bills

According to Article 107(1) a Bill other than a money bill and a financial bill may originate in either House of Parliament.

Article 107(2) holds that Subject to the provisions of Articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.

Article 107(3) holds that a Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

Article 107(4) holds that A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on dissolution of the House of the People.

Article 105(5) holds that A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall, subject to the provisions of Article 108, lapse on a dissolution of the House of the People.

Joint sitting of both Houses in certain cases

According to Article 108(1) If after a Bill has been passed by one House and transmitted to the other House—

(a) the Bill is rejected by the other House; or

- (b) the Houses have finally disagreed as to the amendments to be made in the Bill; or
- (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has elapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

According to Article 108(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

- (a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;
- (b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed; and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

According to Article 108(5) A joint sitting may be held under this Article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.



FOCUS ON**Joint Session Convened to remove deadlock**

1. May 6th and 9th, 1961: to pass the Dowry Prohibition Bill.
2. May 16th, 1978: to pass the Banking Service Commission (Repeal) Bill, 1977
3. March 26th, 2002: to pass the POTA Bill

Procedure in Financial matters**BUDGET**

In accordance with **Article 112(1)** in respect of every financial year, the President causes to be laid before both Houses of Parliament an "annual financial statement"—a statement of the estimated receipts and expenditure of the Government of India. The annual financial statement, otherwise known as the 'Budget', is presented in two parts, viz., the Railway Budget pertaining to Railway Finance, and the General Budget which gives an overall picture of the financial position of the Government of India, excluding Railways.

The Budget is presented on such a day as the President directs. By convention the Railway Budget is presented to the Lok Sabha sometime in the third week of February and the General Budget is generally presented on the last working day of February each year. Simultaneously, copies of the respective Budgets are laid on the Table of the Rajya Sabha.

In an election year, the Budget may be presented twice—first to secure a Vote on Account for a few months and later, in full, on a day convenient to the Government. A few days before the commencement of the Budget session, the Ministry of Parliamentary Affairs forwards to the Secretariat a provisional programme of dates for the financial business to be transacted during that session. This is published in the Bulletin for the information of the members.

The estimates of expenditure embodied in the annual financial statement show separately the sums required to meet expenditure which the Constitution has 'charged' upon the Consolidated Fund of India and the sums required to meet other expenditure. The charged expenditure is not required to be submitted to the vote of Parliament

but it can be discussed in either House of Parliament. The other expenditure is required to be submitted in the form of demands for grants to the Lok Sabha which has the exclusive power to assent, or to refuse to assent, any demand, or to assent to any demand subject to a reduction of the amount specified therein.

Distribution of Budget sets

Sets of the Budget Papers consisting of Finance Minister's speech (Parts A & B), Budget of the Union Government; Explanatory Memorandum on the Budget; Budget at a Glance; Finance Bill; Memorandum explaining the provisions in the Finance Bill; Summary of Demands for Grants; Key to the Budget Documents; Books of Demands for Grants are received from the Ministry of Finance for distribution to members. These are distributed to members in the Outer Lobby of the Chamber, after the budget is laid on the Table of the Rajya Sabha. Members are informed about the procedure for the collection of the Budget sets, through a paragraph in the Bulletin Part II.

General discussion on Budget

There is no discussion on the Budget on the day on which it is presented. On subsequent days and for such time as the Chairman allots for this purpose, the House is at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion is moved nor is the Budget submitted to the vote of the House. The Chairman may, if he thinks fit, prescribe a time limit for speeches. The Finance Minister (includes any Minister) has a general right of reply at the end of the discussion. In case of the Railway Budget, the same procedure applies and the Minister of Railways replies at the end of the discussion thereon.

Notwithstanding that a day has been allotted for financial business, a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced on such day before the House enters on that business for which the day has been allotted. Financial business in this context includes any business which the Chairman holds as coming within this category under the Constitution. There had been occasions in the past when the general discussion on the General



Budget was initiated in the Rajya Sabha before it commenced in the Lok Sabha.

The Rajya Sabha commenced general discussion on the Budget (General) 1955-56 on 3 March 1955, whereas in the Lok Sabha it commenced on 16 March 1955; the general discussion on Budget (General) 1959-60, commenced in the Rajya Sabha on 3 March 1959, whereas in the Lok Sabha it commenced on 9 March 1959. In 1963, the general discussion on the Budget (General) commenced in the Rajya Sabha and Lok Sabha, respectively on 4 March and 12 March. In 1965, the general discussion on the Budget (General) took place in the Rajya Sabha and Lok Sabha, respectively on 10 and 22 March. Similarly, in 2002, the discussion on Budget (General) took place in the Rajya Sabha and Lok Sabha, respectively on 18 and 19 March 2002.²¹

Appropriation and Finance Bills

No money can be withdrawn from the Consolidated Fund of India except under appropriation made by law.²⁷ After the Lok Sabha has made grants, a Bill is introduced there to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet the grants made by that House and the expenditure charged on the Consolidated Fund of India. Appropriation Bills may pertain to vote on account, supplementary demands for grants or excess grants.

Since they are Money Bills within the definition of Article 110 of the Constitution, the Rajya Sabha has to return them within a period of fourteen days from the date of their receipt.

The Constitution provides for **vote on account**, i.e., for grants in advance to be made by Parliament pending the passing of General Appropriation Bill. Dr. Ambedkar who introduced the provision regarding vote on account in the Constitution in the Constituent Assembly stated that full discussion should be held in Parliament on the financial statement and on the Government's taxation proposals and proposals for expenditure. Since these discussions might not be completed before the beginning of a financial year, this provision was made to enable Parliament to vote a lumpsum grant under each demand sufficient for the Government to incur expenditure for a

short period until the taxation and expenditure proposals were discussed in full and an Appropriation Act was passed.

Normally, vote on account is taken for two months only. But during an election year or when it is anticipated that the main demands and the Appropriation Bill may take longer than two months to be passed by Parliament, the vote on account may be for a period exceeding two months and may extend to three or four months as has happened in 1996 a 2004 and 2009 due to elections.

As per the practice, whenever any amount is drawn from the Contingency Fund of India for a new service, the Minister concerned makes a statement in both Houses.

The Rajya Sabha gets an opportunity to consider supplementary or additional grants when the related Appropriation Bill comes before it after it is passed by the Lok Sabha.

If any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, a demand for such excess is presented to the Lok Sabha only. A demand for excess grant is made after the expenditure has been incurred and it cannot be described as "estimated" amount of expenditure. Hence such a statement is not required to be laid on the Table of the Rajya Sabha. The Rajya Sabha gets an opportunity of discussing the excess grant when the concerned Appropriation Bill is transmitted to it after it is passed by the Lok Sabha.

In the case of a Finance Bill, the Rajya Sabha can also make recommendations for amendment. The financial business culminates in the return by the Rajya Sabha of the Appropriation and the Finance Bills. Parliament may, for the purpose of timely completion of financial business, regulate by law the procedure of, and the conduct of business, in each House of Parliament in relation to financial business. No such legislation has so far been enacted.

Charged Expenditure

Article 112 (3) talks about the charged expenditures. It is the expenditure that is charged on the consolidated fund of India and does not need a sanction of the Parliament to be spent out of the consolidated fund of India. The Constitution itself declared certain expenditure to be charged



expenditures and has also authorized the Parliament to declare by law other expenditure as charged expenditure.

- (i) The emoluments & allowances of the President and other expenditure relating to his office.
- (ii) Salaries and allowances of the chairman and Deputy chairman of Rajya Sabha.
- (iii) Salaries and allowances of the Speaker and deputy speaker of the Lok Sabha.
- (iv) The debt charges for which the Government of India is liable
- (v) Salaries, allowances and pensions payable to the judges of the SC and the pensions payable to the judges of the High Courts.
- (vi) The salaries, allowance of pension payable to the CAG.
- (vii) Any sum required to satisfy any judgment or award of any court or an arbitration tribunal.
- (viii) Any expenditure declared by the Parliament by law to be so charged.

Supplementary, additional or excess grants.—

According to Article 115 (1) The President shall—

- (a) if the amount authorised by any law made in accordance with the provisions of Article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
 - (b) 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, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.
- (2) The provisions of Articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out

of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

Guillotine: The adoption of demands for grants made by the various ministries without any discussion in the Lok Sabha is known as guillotine. This is a negative concept which indicates the lack of financial control exercised by the Parliament over the executive.

Consolidated Fund of India

Article 266 provides for the consolidated fund. It is the largest fund of the government of India. All revenues received by Government by way of taxation like income-tax, central excise, custom, land revenue (tax revenues) and other receipts flowing to Government in connection with the conduct of Government business like receipts from Railways, Posts, Transport etc. (non-tax revenues) are credited into the Consolidated Fund. Similarly, all loans raised by Government by issue of Public notifications, treasury bills (internal debt) and loans obtained from foreign governments and international monetary institutions (external debt) and all moneys received by Government in repayment of loans and interest thereon are also credited into this Fund. All expenditure incurred by the Government for the conduct of its business including repayment of internal and external debt and release of loans to States/Union Territory Governments for various purposes is debited against this Fund.

It is placed at the disposal of the Parliament. No money can be deposited into or withdrawn out of this fund by the executive without a sanction of the Parliament.

Consolidated Fund of India is divided into three main divisions, namely:

- (a) A Revenue Section with the two subdivisions to account for Revenue Receipts (Tax and Non-Tax) and Revenue Expenditure.
- (b) A Capital Section which is divided into two subdivisions dealing with-



- (i) Capital Receipts.
- (ii) Capital Expenditure.
- (c) Public Debt and Loans and Advances etc.

Every state has its own consolidated fund under Article 266.

Public Accounts of India

It is a Constitutional fund provided under Article 266. All Public Money received by Government other than those which are for credit to the Consolidated Fund of India are accounted for under Public Account. The receipts into the Public Account and disbursements out of it are not subject to vote by the Parliament. Receipts under this account mainly flow from the sale of Savings Certificates, contributions into General Provident Fund and Public Provident Fund, Security Deposits and Earnest Money Deposits received by the Government. In respect of such receipts, the Government is acting as a Banker or Trustee and refunds the money after completion of the contract/event. The Public Account also includes various suspense and remittance heads. It is at the disposal of the Executive.

Public Account is divided into six sub-divisions, namely:—

- (i) Small Savings, Provident Funds etc.
- (ii) Reserve Funds.
- (iii) Deposits and Advances.
- (iv) Suspense and Miscellaneous.
- (v) Remittances.
- (vi) Cash Balance.

Every state has its own Public Accounts under Article 266.

Contingency Fund of India

Article 267 authorizes the Parliament to create a law for an emergency fund known as the contingency fund of India. The Parliament passed the contingency fund (miscellaneous provisions) Act, 1950, which created the contingency fund of India with an upper limit of Rs. 50 crores. This is in the nature of an imprest and is kept at the disposal of the President of India to enable the Government to meet unforeseen expenditure pending its authorisation by the Parliament. The money is to be used to provide

immediate relief to victims of natural calamities and also to implement any new policy decision taker, by the Government pending its approval by the Parliament. In all such cases, after the Parliament meets, a Bill is presented indicating the total expenditure to be incurred on the scheme/project during the current financial year. After the Parliament votes the bill, the money already spent out of the Contingency Fund is recouped by debiting the expenditure to the concerned functional Major Head etc. in the Consolidated Fund of India.

Contingency Fund being an imprest is accounted for under a single Major Head.

Motions in the Parliament

A motion is a procedural device by which the functions of the house is sought to be achieved.

Censure Motion

The censure motion is introduced only in the Lok Sabha by the opposition to seek the disapproval of a policy of the Government of India. If it is adopted by the Lok Sabha, then it amounts to the censure of the government and the government is expected to seek a vote of confidence within a reasonable time

No-Confidence Motion

It can be introduced in the Lok Sabha by the opposition. However, not less than 50 members of the Lok Sabha must support it at the time of its introduction. The scope of this motion is wider than the censure motion and any policy issue of the Government of India can be discussed. Once the motion is admitted by the speaker, it takes precedence over all other pending business of the house. If it is passed the government is expected to submit its resignation to the president, else he can dismiss it.

Adjournment Motion

It is brought to adjourn an ongoing discussion in the house and to discuss a matter of urgent public importance. An adjournment motion has to be moved by at least 50 members of the house. If it is adopted the speaker may fix the time of the debate at 16.00 hrs on that day. It continues for 2½ hrs and beyond if permitted by the chair.



Calling Attention Motion

The Calling Attention Motion is an easy substitute for adjournment motion. In the calling attention motion neither formal discussion takes place nor is voting carried out. The concerned minister makes a brief statement about the matter and the members are allowed to ask supplementary questions.

Cut Motion

The proposals for expenditure are presented before the Parliament in the form of demands of each department. While voting on these demands, the members may propose cut motions on these demands. Cut motions are initiated only in the Lok Sabha. The cut motions are of three types-

- Policy cut – the objective of this motion is to disapprove the policy underlying the expenditure prescribed in the demands for grant of a particular department.
- Economy cut - the objective of this motion is to propose a reduction in the proposed expenditure under the demands for grant.
- Token cut - it is moved with an aim to raise specific grievances against government. The grievances raised in the motion may not be related at all with the demands for grants of a department.

COMMITTEES OF THE PARLIAMENT

The work done by the Parliament in modern times is not only varied in nature, but considerable in volume. The time at its disposal is limited. It cannot, therefore, give close consideration to all the legislative and other matters that come up before it. A good deal of its business is, therefore, transacted by what are called the Parliamentary Committees.

Adhoc and Standing Committees

Parliamentary Committees are of two kinds:

- Ad hoc Committees, and**
- The Standing Committees.**

Adhoc Committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report. The principal Ad hoc Committees are the Select

and Joint Committees on Bills. Others like the Railway Convention Committee, the Committees on the Draft Five Year Plans and the Hindi Equivalents Committee were appointed for specific purposes. Apart from the Adhoc Committees, each House of Parliament has Standing **Committees** like the Business Advisory Committee, the Committee on Petitions, the Committee of Privileges and the Rules Committee, etc.

Other Committees

Of special importance is yet another class of Committees which act as Parliament's 'Watch Dogs' over the executive. These are the Committees on Subordinate Legislation, the Committee on Government Assurances, the Committee on Estimates, the Committee on Public Accounts and the Committee on Public Undertakings and Departmentally Related Standing Committees (DRSCs). The Committee on Estimates, the Committee on Public Accounts, the Committee on Public Undertakings and DRSCs play an important role in exercising a check over governmental expenditure and Policy formulation.

Composition and Functions of the Committees

Select and Joint Committees

When a Bill comes up before a House for general discussion, it is open to that House to refer it to a Select Committee of the House or a Joint Committee of the two Houses. A motion has to be moved and adopted to this effect in the House in which the Bill comes up for consideration. In case the motion adopted is for reference of the Bill to a Joint Committee, the decision is conveyed to the other House requesting them to nominate members of the other House to serve on the Committee. The Select or Joint Committee considers the Bill clause by clause just as the two Houses do. Amendments can be moved to various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the Bill. After the Bill has thus been considered the Committee submits its report to the House. Members who do not agree with the majority report may append their minutes of dissent to the report.



Committee on Estimates

This Committee consists of 30 members who are elected by the Lok Sabha every year from amongst its members. A Minister is not eligible for election to this Committee. The term of the Committee is one year. The main function of the Committee on Estimates is to report what economies, improvements in organisation, efficiency, or administrative reform, consistent with the policy underlying the estimates may be effected and to suggest alternative policies in order to bring about efficiency and economy in administration. From time to time the Committee selects such of the estimates pertaining to a Ministry or a group of Ministries or the statutory and other Government bodies as may seem fit to the Committee. The Committee also examines matters of special interests which may arise or come to light in the course of its work or which are specifically referred to it by the House or the Speaker.

Committee on Public Undertakings

The Committee on Public Undertakings consists of 15 members elected by the Lok Sabha and 7 members of Rajya Sabha are associated with it. A Minister is not eligible for election to this Committee. The term of the Committee is one year.

The functions of the Committee on Public Undertakings are—

- (a) to examine the reports and accounts of Public Undertakings;
- (b) to examine the reports, if any, of the Comptroller and Auditor General on the Public Undertakings;
- (c) 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; and
- (d) Such other functions vested in the Committee on Public Accounts and the Committee on Estimates in relation to the Public Undertakings as are not covered by clauses (a), (b) and (c) above and as may be allotted to the Committee by the Speaker from time to time.

The Committee does not, however, examine matters of major Government policy and matters of day-to-day administration of the Undertakings. The Committee is headed by a member of Lok Sabha who is from the Opposition parties.

Committee on Public Accounts

This Committee consists of 15 members elected by the Lok Sabha and 7 members of the Rajya Sabha are associated with it. A Minister is not eligible for election to this Committee. The term of the Committee is one year.

The main duty of the Committee is to ascertain whether the money granted by Parliament has been spent by Government "within the scope of the Demand". The Appropriation Accounts of the Government of India and the Audit Reports presented by the Comptroller and Auditor General mainly form the basis for the examination of the Committee. Cases involving losses, nugatory expenditure and financial irregularities come in for severe criticism by the Committee. The Committee is not concerned with questions of policy. It is concerned only with the execution of the policy laid down by Parliament and its results.

Business Advisory Committee (Lok Sabha)

The Business Advisory Committee of Lok Sabha consists of 15 members including the Speaker who is the ex-officio Chairman. The members are nominated by the Speaker. Almost all sections of the House are represented on the Committee as per the respective strength of parties in the House. The function of the Committee is to recommend the time that should be allotted for the discussion of such Government legislative and other business as the Speaker, in consultation with the Leader of the House, may direct to be referred to the Committee. The Committee, on its own initiative, may also recommend to the Government to bring forward particular subjects for discussion in the House and recommend allocation of time for such discussions. The decisions reached by the Committee are always unanimous in character and representative of the collective view of the House. The Committee generally meets at the beginning of each Session and thereafter as and when necessary.



Committee on Private Members' Bills and Resolutions (Lok Sabha)

This Committee consists of 15 members and the Deputy Speaker is its Chairman when nominated as a member of the Committee. The Committee is nominated by the Speaker. The functions of the Committee are to allot time to Private Members' Bills and Resolutions, to examine Private Members' Bills seeking to amend the Constitution before their introduction in Lok Sabha, to examine all Private Members' Bills after they are introduced and before they are taken up for consideration in the House and to classify them according to their nature, urgency and importance into two categories namely, category A and category B and also to examine such Private Members' Bills where the legislative competence of the House is challenged. The Committee, thus, performs the same function in relation to Private Members' Bills and Resolutions as the Business Advisory Committee does in regard to Government Business. The Committee holds office for a term not exceeding one year.

Rules Committee (Lok Sabha)

The Rules Committee consists of 15 members including the Speaker who is the ex-officio Chairman of the Committee. The members are nominated by the Speaker. The Committee considers matters of procedure and conduct of business in the House and recommends any amendments or additions to the Rules of Procedure and Conduct of Business in Lok Sabha that are considered necessary.

Committee of Privileges (Lok Sabha)

This Committee consists of 15 members nominated by the Speaker. The function is to examine every question involving breach of privilege of the House or of the members of any Committee thereof referred to it by the House or by the Speaker. It determines with reference to the facts of each case whether a breach of privilege is involved and makes suitable recommendations in its report.

Committee On Papers Laid On The Table (Lok Sabha)

This Committee consists of 15 members nominated by the Speaker. Its function is to examine all papers laid on the Table of the House by Ministers (other

than those which fall within the purview of the Committee on Subordinate Legislation or any other Parliamentary Committee) and to report to the House—

- (a) whether there has been compliance of the provisions of the Constitution, Act, rule or regulation under which the paper has been laid,
- (b) whether there has been any unreasonable delay in laying the paper,
- (c) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory,
- (d) whether both the Hindi and English versions of the paper have been laid on the Table,
- (e) whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory,
- (f) such other functions in respect of the papers laid on the Table as may be assigned to it by the Speaker from time to time.

Committee on Petitions (Lok Sabha)

The Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. The function of the Committee is to consider and report on petitions presented to the House. Besides, it also considers representations from individuals and associations, etc. on subjects which are not covered by the rules relating to petitions and gives directions for their disposal.

Committee on Subordinate Legislation (Lok Sabha)

The Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. The Committee scrutinizes and reports to the House whether the powers to make regulations, rules, sub-rules, by-laws etc. conferred by the Constitution or delegated by Parliament are being properly exercised by the executive within the scope of such delegation.

Committee on Government Assurances (Lok Sabha)

This Committee consists of 15 members nominated



by the Speaker. A Minister is not nominated to this Committee. While replying to questions in the House or during discussions on Bills, Resolutions, Motions etc., Ministers at times give assurances or undertakings either to consider a matter or to take action or to furnish the House further information later. The functions of this Committee are to scrutinize the assurances, promises, undertakings etc. given by Ministers from time to time and to report to Lok Sabha on the extent to which such assurances etc. have been implemented and to see whether such implementation has taken place within the minimum time necessary for the purpose.

Committee On Absence Of Members From The Sittings Of The House (Lok Sabha)

The Committee consists of 15 members who hold office for one year. The members are nominated by the Speaker. This Committee considers all applications from members for leave of absence from the sittings of the House and examines every case where a member has been absent for a period of 60 days or more, without permission, from the sittings of the House. In its report it makes recommendations with respect to each case as to whether the absence should be condoned or leave applied granted or whether the circumstances of the case justify that the House should declare the seat of the member vacant.

Joint Committee on Offices of Profit

This Committee consists of 15 members. Ten members are elected from Lok Sabha and five from Rajya Sabha. The Committee is constituted for the duration of each Lok Sabha.

The main functions of the Committee are to examine the composition and character of the Committees appointed by the Central and State Governments and to recommend what offices should disqualify and what offices should not disqualify a person for being chosen as, and for being, a member of either House of Parliament under Article 102 of the Constitution.

Committee on the Welfare of Scheduled Castes and Scheduled Tribes

The Committee on the Welfare of Scheduled Castes and Scheduled Tribes consists of 20 members elected by the Lok Sabha and 10 members of Rajya Sabha

are associated with it. The term of the Committee is one year. A Minister is not eligible for election to this Committee. The main functions of the Committee are to consider all matters concerning the welfare of the Scheduled Castes and Scheduled Tribes, falling within the purview of the Union Government and the Union Territories, to consider the reports submitted by the National Commission for Scheduled Castes and Scheduled Tribes and to examine the measures taken by the Union Government to secure due representation of the Scheduled Castes and Scheduled Tribes in services and posts under its control.

Railway Convention Committee

The Railway Convention Committee is an ad-hoc Committee. It consists of 18 members. Out of these, 12 members are from Lok Sabha nominated by the Speaker and 6 members are from Rajya Sabha nominated by the Chairman. By convention the Minister of Finance and the Minister of Railways are members of the Committee. Besides this, Ministers of State in the Ministry of Finance and Ministry of Railways respectively are also its members.

The main function of the Committee is to review the Rate of Dividend payable by the Railways undertaking to General Revenues as well as other ancillary matters in connection with the Railway Finance vis-à-vis the General Finance and make recommendations thereon. The Railway Convention Committee, 1949 was the first Committee after independence. This Committee and subsequent Committees confined themselves to determining the rate of dividend payable by Railways to General Revenues. Since 1971 the Railway Convention Committees have been taking up subjects for examination and report which have a bearing on the working of Railways.

Committee on Empowerment of Women

This Committee came into being on 29th April, 1997, as a consequence of identical Resolutions adopted by both the Houses of Parliament on the occasion of International Womens' Day on 8th March, 1996. The Committee consists of 30 members, 20 nominated by the Speaker from amongst the members of Lok Sabha and 10 nominated by the Chairman, Rajya Sabha from amongst the members of the Rajya Sabha. The



term of the Committee is of one year. The Committee have been primarily mandated with the task of reviewing and monitoring the measures taken by the Union Government in the direction of securing for women equality, status and dignity in all matters. The Committee would also suggest necessary correctives for improving the status/ condition of women in respect of matters within the purview of the Union Government. Besides, another important function of the Committee is to examine the measures taken by the Union Government for comprehensive education and adequate representation of women in Legislative bodies/services and other fields. The Committee would also consider the report of the National Commission for Women. The Committee may also examine such other matters as may seem fit to them or are specifically referred to them by the Lok Sabha or the Speaker and the Rajya Sabha or the Chairman, Rajya Sabha.

DEPARTMENTALLY RELATED STANDING COMMITTEES

In 1993, the subject of Departmentally Related Standing Committees was considered at a joint sitting of the Rules Committees of both Houses of Parliament which met under the Chairmanship of the Chairman Rajya Sabha. In that meeting it

was decided to set up 17 Standing Committees of Parliament on various Ministries/Departments of the Union Government with a view to ensuring the accountability of Government to Parliament through in depth examination of the Government's functioning Bills, Demands for Grants, Long Term National Policies etc.

In pursuance of that decision, the Committee on Rules of Rajya Sabha framed the rules relating to Constitution functions etc. of these Department-related Parliamentary Standing Committees, for incorporation in the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha). The report of the Committee containing the draft rules for the purpose was presented to the House on March 24, 1993 and was adopted by the House on March 29, 1993. The new rules (Rules 268 to 277) came into effect on March 29, 1993 itself following a direction to that effect from the Hon'ble Chairman, Rajya Sabha. Accordingly following 17 Department-related Parliamentary Standing Committees were first constituted by the Hon'ble Chairman, Rajya Sabha and Hon'ble Speaker, Lok Sabha on April 8, 1993 by nominating Members of Rajya Sabha and Lok Sabha respectively:

These Committees cover under their jurisdiction all the Ministries/ Departments of the Government of India.

Table 3
Departmentally Related Standing Committees

| SI. No. | Name of the Committee | Ministries/Departments |
|----------------|---|---|
| 1. | Committee on Commerce | 1. Commerce 2. Textiles |
| 2. | Committee on Home Affairs | 1. Home Affairs 2. Law, Justice & Company Affairs 3. Personnel, Public Grievances & Pensions |
| 3. | Committee on Human Resource Development | 1. Human Resource Development 2. Health and Family Welfare |
| 4. | Committee on Industry | 1. Industry 2. Steel 3. Mines |
| 5. | Committee on Science & Technology, Environment & Forests | 1. Science & Technology 2. Electronics 3. Space 4. Ocean Development 5. Biotechnology 6. Environment & Forests |



| | | |
|-----|---|--|
| 6. | Committee on Transport & Tourism | 1. Civil Aviation 2. Surface transport 3. Tourism |
| 7. | Committee on Agriculture | 1. Agriculture 2. Water Resources 3. Food Processing |
| 8. | Committee on Communications | 1. Information and Broadcasting 2. Communications |
| 9. | Committee on Defence | Defence |
| 10. | Committee on Energy | 1. Coal 2. Non-conventional Energy Sources 3. Power 4. Atomic Energy |
| 11. | Committee on External Affairs | External Affairs |
| 12. | Committee on Finance | 1. Finance 2. Planning 3. Programme Implementation |
| 13. | Committee on Food, Civil Supplies and Public Distribution | 1. Food 2. Civil supplies 3. Consumer Affairs and Public Distribution |
| 14. | Committee on Labour and welfare | 1. Labour 2. Welfare |
| 15. | Committee on Petroleum & Chemicals | 1. Petroleum & Natural Gas 2. Chemicals and Petro-Chemicals 3. Fertilizers |
| 16. | Committee on Railways | Railways |
| 17 | Committee on Urban and Rural Development | 1. Urban Development 2. Rural development |

Each of these Standing Committees consists of not more than 45 members—30 to be nominated by the Speaker from amongst the members of Lok Sabha and 15 to be nominated by the Chairman, Rajya Sabha from amongst the members of Rajya Sabha. A Minister is not eligible to be nominated to these Committees.

The term of members of these Committees is one year. With reference to the Ministries/Departments under their purview, the functions of these committees are:

(a) Consideration of Demands for Grants.

- (b) Examination of Bills referred to by the Chairman, Rajya Sabha or the Speaker, Lok Sabha as the case may be.
- (c) Consideration of Annual Reports.
- (d) Consideration of national basic long term policy documents presented to the House and referred to the Committee by the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be. These Committees do not consider matters of day-to-day administration of the concerned Ministries/Departments.



The newly constituted departmentally related Standing Committee System is a path-breaking endeavour of the Parliamentary surveillance over administration. With the emphasis of their functioning to concentrate on long-term plans, policies and the philosophies guiding the working of the Executive, these Committees will be in a very privileged position to provide necessary direction, guidance and inputs for broad policy formulations and in achievement of the long-term national perspective by the Executive.

QUESTIONS IN PARLIAMENT

Generally, the first hour of a sitting of Parliament is devoted to Questions and that hour is called the Question Hour. It has a special significance in the proceedings of Parliament. Asking of questions is an inherent and unfettered Parliamentary right of members. It is during the Question Hour that the members can ask questions on every aspect of administration and Governmental activity. Government policies in national as well as international spheres come into sharp focus as the members try to elicit pertinent information during the Question Hour.

The Government is, as it were, put on its trial during the Question Hour and every Minister whose turn it is to answer questions has to stand up and answer for his or his administration's acts of omission and commission. Through the Question Hour the Government is able to quickly feel the pulse of the nation and adapt its policies and actions accordingly. It is through questions in Parliament that the Government remains in touch with the people in as much as members are enabled thereby to ventilate the grievances of the public in matters concerning the administration. Questions enable Ministries to gauge the popular reaction to their policy and administration. Questions bring to the notice of the Ministers many an abuse which otherwise would have gone unnoticed. Sometimes questions may lead to the appointment of a commission, a court of enquiry or even legislation when matters raised are grave enough to agitate the public mind and are of wide public importance.

The Question Hour is an interesting part of the Parliamentary proceedings. Although a question mainly seeks information and tries to elicit facts on a particular subject, there are many a time lively

and quicksilver repartees between the Members asking the questions and the Ministers answering them. These repartees are sometimes coupled with flashes of wit and humour. That is why the public galleries and the press galleries are packed to capacity during the Question Hour.

TYPES OF QUESTIONS

Questions are of four types:-Starred, Unstarred, Short Notice Questions and Questions addressed to private Members:

A **Starred Question** is one to which a member desires an oral answer in the House and which is distinguished by an asterisk mark. When a question is answered orally, supplementary questions can be asked thereon. Only 20 questions can be listed for oral answer on a day.

An **Unstarred Question** is one which is not called for oral answer in the House and on which no supplementary questions can consequently be asked. To such a question, a written answer is deemed to have been laid on the Table after the Question Hour by the Minister to whom it is addressed. It is printed in the official report of the sitting of the House for which it is put down.

A **Short Notice Question** is one which relates to a matter of urgent public importance and can be asked with shorter notice than the period of notice prescribed for an ordinary question. Like a starred question, it is answered orally followed by supplementary questions.

The **Question to a Private Member** is addressed to the Member himself/herself and it is asked when the subject matter of it pertains to any Bill, Resolution or any matter relating to the Business of the House for which that Member is responsible. For such Questions, the same procedure is followed as in the case of Questions addressed to a Minister with such variations as the Speaker may consider necessary or convenient.

NOTICES OF QUESTIONS

A member gives notice in writing addressed to the Secretary-General, Lok Sabha, intimating his intention to ask a question. Besides the text of the question, the notice states clearly the official designation of the Minister to whom the question is addressed as also the date on which the question



is desired to be placed on the list of questions for answer as also the order of preference, if any, for its being placed on the list of questions when a member tables more than one notice of questions for the same day.

The normal period of notice of a question is not more than twenty-one and not less than ten clear days. A short notice question can be asked with a notice shorter than ten days, but the member has to state briefly the reasons for asking the question at short notice.

Adequate efforts have to be made to develop the essential prerequisites for the success of Parliamentary polity – discipline, character, high sense of public morality, ideology-oriented two or three-party system and willingness to hear and accommodate minority views. Several of the archaic practices and time-consuming procedures most unsuitable for present-day needs have to be changed. Members, irrespective of their party affiliations, have themselves become a new caste, parts of the establishment and co-sharers in the spoils. Again, some honourable exceptions apart, politics and membership of Parliament have emerged as a whotetime, highly lucrative, hereditary profession for a majority of those involved. There is general apathy among Members, ministers and the public at large in the work of Parliament.

Legitimacy of government and of representative institutions under the system are inextricably linked to free and fair elections and to the system being able to bring to power persons who truly represent the people's will and have the necessary abilities to govern. The representative credentials of our elected representatives have come to be questioned. There are hardly any ideological or programmatic considerations in voting. Almost all parties and candidates are busy building their vote banks on the basis of caste, communal, linguistic or other such identities or through clandestine control of the electoral processes.

Despite the Election Commission and Supreme Court efforts, the number of crime-tainted members has increased. Distortions have also crept into the representative character of Parliament through the operation of the electoral system. Majority of those declared elected happen to have secured only minority of votes. Therefore, it seems it would be necessary to reform the electoral system

and the political party system before Parliament can be made more effective.

Role expectation of Parliament is linked with the role perception of the State. Economic reforms should lead to cutting back on government involvement and drastic reduction in the role of the State in national economy. This should naturally get reflected in the reduced role for Parliament and its Committees. Also their processes, control mechanisms, debating and decision-making procedures would have to be revamped and made faster. Floor management techniques would have to be professionalized at the level of whips, Parliamentary officials and the presiding officers.

Parliament in the future would be relevant only as a dynamic institution ever adjusting its functions and procedures to the changing needs of the times. If democracy and freedom are to endure, if representative institutions are to be made impregnable, it is essential to restore to Parliament and its members their traditional esteem and honour in the affections of the people. Reforming Parliament in essential respects is already a categorical imperative.

Parliamentary reforms would have to include: building a better image of Parliament as belonging to the people and not to MPs and establishing a new rapport between the people and Parliament; improving the quality and conduct of members; reducing expenditure on Parliament and making membership financially less attractive and more motivated by the spirit of sacrifice and service; quashing forthwith the unconstitutional MPLAD Scheme; improving information supply and efficacy of committee scrutiny; legislative planning and improving the quality of laws; setting up standing committees on the Constitution and on the economy – subjecting constitutional amendments to closer committee scrutiny and raising economic policy to non-party levels; codifying privileges; improving working of parties, floor management and Parliamentary time table; and rationalizing and modernizing rules of procedure to meet today's needs.

The Parliamentarians have to be like Caesar's wife, above suspicion. They must voluntarily place themselves open to public scrutiny through a Parliamentary ombudsman. Supplemented by a code of ethics which has been under discussion



for a long time, it would place Parliament on the high pedestal of people's affection and regard.

Better and more institutionalized arrangements are necessary to provide the much needed professional orientation to newly elected members. The curriculum should include, among other things, adequate knowledge of the political system, the Constitution, the rules of procedure and conduct of business, practices and precedents, mechanisms and modalities of working of the Houses and the Parliamentary Committees, the rules of Parliamentary etiquette, and, what is even more important, the unwritten rules of Parliamentary conduct and speech. The emphasis should be on imparting practical knowledge on how to be an effective member.

Some of the archaic practices and time-consuming procedures may not be suitable to present day needs of Parliamentary institutions. A number of small but effective reforms can be carried out to make the functioning of Parliament more efficient and economical. These are not spectacular things that catch headlines, but solid, modest steps that build up to an efficient use of time and to a bigger focus on substantive discussions on policy and legislation. They have to do with reorganisation

of Parliamentary time table, the question hour, the 'Zero Hour', adjournment motions, absenteeism etc.

As a general guideline, members have to ensure that the houses of Parliament are allowed to run and conduct their business with dignity and decorum in order to most vigorously exercise vigilance, surveillance and control over the government. Anything that makes the houses dysfunctional is a disservice to the basic values of Parliamentary polity. At the same time it has to be realised and accepted by all concerned that the purpose of rules of procedure etc. is to enable and facilitate members to freely and fearlessly express themselves on the floor of the house. It is not to prevent them from having their say. The best way to deal with issues of procedural reforms in a professional and not political manner is to have them studied by a Study Group outside Parliament as was done in U.K. The conclusions and suggestions of the Group can be considered by the Rules Committees of the houses of Parliament. The Commission on Review of the Constitution had also suggested for the setting up of a study Group of Parliament outside Parliament.

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