

⑤ Art 12 - If RS passes a resolution supported by the majority as mentioned above so as to protect national interest, it can authorise the parliament to create one or more all India services including an all India judicial service by enacting law.

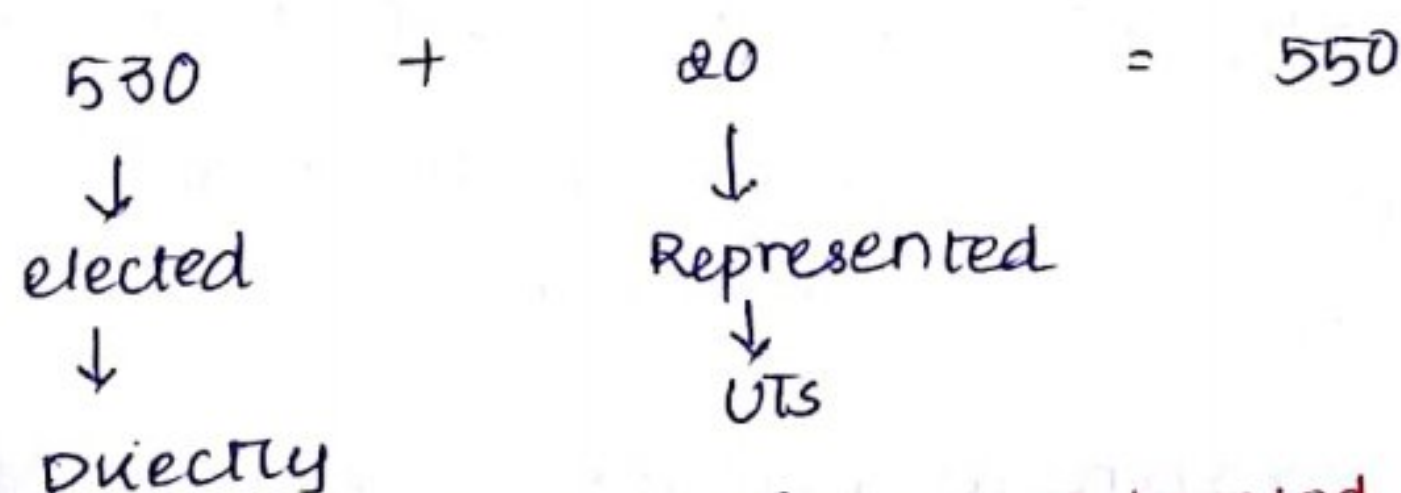
The most fundamental function of RS is to act as a revisory house to prevent or delay hasty legislation initiated by LS which is a directly elected house. Further, RS broadens the scope of representation thro' the system of nominated membership. In the present political circumstances, RS appears to be more relevant than ever as it can seek to reclaim the legislative space & autonomy of parliament which LS may cede to a majority govt. & in such a scenario RS holds the potential to emerge as balancing wheel of Indian federalism.

### Lecture - 3

30<sup>th</sup> Dec 2018

### HOUSE OF PEOPLE : LOK SABHA.

Art 81 : Composition of LS



↳ Territorial constituency → located in states

Art 331 : If pres is of opinion that Anglo India is not adequately represented, can nominate 2 Anglo Indian. Now max. strength will be  $530 + 20 + 2 = 552$

Anglo Indian : ppl of European countries : Person whose father / any of male progenitors is/was from, European countries.



↳ Presently, the strength of LS is 545

↳ Father → foreign national

Mother → natural Indian

Child → no citizenship as a right is given to child.

Before it was followed.

↳ Art 101 : Resignation of MP shall not be accepted by presiding officer (speaker) if it is not voluntary and genuine

↳ Speaker → Ruling party [not bounded by party loyalty]

↳ Deputy speaker → opposition party

↳ Art 93: Speaker / Deputy speaker elected by a simple majority at the first meeting.

↳ Art 94: Speaker Can be removed by passing a resolution by effective majority

[at least 2 weeks  
of notice  
period]

↳ If both speaker are absent, house'll decide who will ~~proceed~~ preside

↳ Rules of procedure

[10 member]

↳ speaker would constitute panel of chairman from different parties, who has experience &

is capable → This panel'll decide who'll ~~proceed~~ <sup>proceed</sup> preside if both speaker are absent.

↳ If panel of chairman, speaker, deputy speaker absent then president'll decide who'll ~~proceed~~ preside.

↳ At first meeting, President'll decide who'll be <sup>elderly</sup> protom

↳ Speaker of protom → most experienced person in Lok Sabha is selected as speaker protom



- ↳ Problem → elected till speaker is elected.  
Speaker election is conducted by him. ↳ Administers the oath of all MPs

PM is head & Speaker is commander of house

- ↳ Speaker's office is office of trust
- ↳ Speaker decides if a bill is money bill or not
- ↳ Money Bill can become a non-money Bill at the course of passage. RS can't pass the money bill.
- ↳ Art 109 → says decision of speaker is final. [applicable to mem of LS + mem of RS]
- ↳ Petitioners → challenged decision of speaker in Nehru Bill.  
HC ruled that speaker's decision was final.
- ↳ acc to Chidambaram, the decision can have Judicial Review.
- ↳ Joint sitting → mechanism in which it can reclaim the legislative functionality of parliament, by getting consolidated votes in favour of Bill.  
↳ enables opportunity to  
↳ In this speaker has power → His/her decision is final.
- ↳ Speaker constitutes the committees, himself decides who all are the members Eg: Joint Parliamentary Committee, financial committees, house committees etc.
- ↳ Speaker is the Patron figure of the parliamentary committee
- ↳ Till eve of first sitting of Lok Sabha → Speaker remains in office → represents continuity of LS as institution
- ↳ Speaker is political head of secretariats.



## \* Special power of LS of everyday significance.

①. No confidence motion <sup>(NCM)</sup> can be invoked only in LS under rule no. 198 of rule of procedure of LS.

↳ power to throw government → strong power of LS away.

↳ Govt. can remain even without legislation.

↳ No ground is required for NCM

↳ Support of atleast 50 members for NCM.

↳ Confidence motion can be introduced only in LS- and <sup>NCM</sup> can be moved only against com

②. Adjournment → power with <sup>presiding</sup> officer to suspend proceeding for few : mins / hours / days.

↳ speaker on last day'll adjourn the meeting without knowing the next meeting date.

↳ Rule 56 of Rules of Procedure → adjournment

doubt ↳ [ If adjournment motion is passed, then confidence motion by parliament has to be passed to prove their majority & trust. ]

↳ Censure motion → Ordinary motion, goes ~~against~~ govt. can ~~also~~ be moved against an individual / grp. of person as unlike NCM (where it's against govt).  
\* Here com neednt vacate the office.

# Google cm and AM.

③. Money Bill can be introduced only in LS. and passed by LS, neglecting the suggestion of Rs.



↳ ④ National Emergency → LS can reject it any time by adding art 352(2).

→ COM does not have discrete to say no to President.  
(when he revokes the declaration of LS by immediate effect)

### \* Immunities & Privileges of Parliament:

↳ Art 105 → provides immunity and privileges to parliament and parliamentarian.

↳ Till date no law got enacted regarding list of privileges.

↳ 44<sup>th</sup> Amendment → British house of commons got deleted but privileges bpr 44<sup>th</sup> Amendment should be followed

### • Immunities available to members:

#### (i) Freedom of speech

No MP can be questioned in court of law for having said / revealed or declared sthg on the floor of the house, in the committee of house or even outside the house but with authorisation of the house.

Eg: available to even some of non-members

• Arun Jaitley → minister of Finance but member of RS not LS

Exception: ① Under Art 118, every house have its rules, whatever you speak'll subject to rule.

Eg: mem. of RS → expelled bcz spoke sthg bad bout women (against rule of procedure)

② Under Art 121, there shall be no discussion on conduct of judge of superior court, unless want him to be removed.



12) No MP can be arrested prior to 40 days of a session, during a session, 40 days after a session.  
80 days is bubble days

↳ Immunity is generally available in civil cases.

Q. MP in judicial custody, has the right to get bail?

→ MP has no right to be released so that he can participate in session. But can be given bail on discretion <sup>power of judge</sup>

(3) Freedom from Jury service:

MP can't be compelled to deliver jury service when under session. He on his own can take decision whether to come or not.

### \* Institutional privileges :

(1) Power to exclude strangers from proceeding

↳ Every outsider is stranger

(2) Right to publish / not publish the proceedings

(3) Power to contempt punish individuals on contempt of parliament.

Q. Why parliamentary privileges are not codified?

Scope of privileges will get narrowed if codified.

→ Delimitation of constituencies

Periodic redrawing of territorial constituency



- Art 170 → delimitation of legislative assemblies.
- Art 82 → delimitation of LS constituencies after every census. → 4 times it was undertaken → 1952 → 1972  
→ 1961 → 2002
- # There shall be uniformity in population of all constituencies
- 1961 and 72 → share of states in RS ~~went~~ underwent change.
- 42<sup>nd</sup> CAA → provided that till year 2002, it's not necessary to go for delimitation → till 1976, it was mandatory under Art 82.
  - till year 2000, share of states in LS, will remain on the basis of 1971 census.
- 84<sup>th</sup> CAA → By 2001 realised, if delimitation happens in proper way, S. Indian will lose almost 35-40 seats.
  - provided for delimitation
- Delimitations <sup>was</sup> ~~was~~ permitted on basis of 1971 census, till 2031 not necessary to go for delimitation.
- 2003, 87<sup>th</sup> CAA - under which instead of 1971 census 2001 census figures were taken into consideration.