

# CENTRAL LEGISLATIVE SYSTEM

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# What does Legislature mean ?

- **Legislature** is a word that comes from the Latin language, meaning "those who write the laws." A **legislature** is therefore a group of people who vote for new laws, for example in a state or country. Each person in the **legislature** is usually either elected or appointed
- Hence a Legislative System means a system of those bodies that is related to law making. And from the Indian point of view, we have the Central Legislative System and State Legislative System.
- The Central Legislative System in India is called **Parliament**.



# What Is Parliament ? (Historical Background)

- Parliaments are common over the whole of the civilized world. English parliament is the Mother of all Parliaments.
- Parliamentary Government has been defined as “Government by talk” or more precisely, “control of Government by talk”.
- It is a place where people talk about the affairs of the nation.
- In the U.K. the Parliament consists of the King, the House of Lords and the House of Commons. All three functionaries join together to complete the actions of Parliament.



# Indian Parliament (Central Legislative System)



- The Indian Parliament is the legislative organ of the Union government. It occupies a pre-eminent and central position in the Indian democratic political system due to adoption of the parliamentary form of government, also known as 'Westminster' model of government.
- **Articles 79 to 122** in **Part V** of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.
- Under the Constitution, the Parliament of India consists of three parts viz, **the President, the Council of States and the House of the People.**
- In 1954, the Hindi names '**Rajya Sabha**' and '**Lok Sabha**' were adopted by the Council of States and the House of People respectively. The Rajya Sabha is the Upper House (Second Chamber or House of Elders) and the Lok Sabha is the Lower House (First Chamber or Popular House). The former represents the states and union territories of the Indian Union, while the latter represents the people of India as a whole.

- Though the President of India is not a member of either House of Parliament and does not sit in the Parliament to attend its meetings, he is an integral part of the Parliament. This is because a bill passed by both the Houses of Parliament cannot become law without the President's assent.
- In this respect, the framers of the Indian Constitution relied on the British pattern rather than the American pattern. In Britain, the Parliament consists of the Crown (King or Queen), the House of Lords (Upper House) and the House of Commons (Lower House).
- By contrast, the American president is not an integral part of the legislature. In USA, the legislature, which is known as Congress, consists of the Senate (Upper House) and the House of Representatives (Lower House).

RAJYA SABHA



# COMPOSITION OF RAJYA SABHA

- The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the President.
- At present, the Rajya Sabha has 245 members. Of these, 229 members represent the states, 4 members represent the union territories and 12 members are nominated by the president.
- (\*\*) The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.



## 1. Representation of States

- The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies. The election is held in accordance with the system of proportional representation by means of the single transferable vote. The seats are allotted to the states in the Rajya Sabha on the basis of population. Hence, the number of representatives varies from state to state. For example, Uttar Pradesh has 31 members while Tripura has 1 member only.

## 2. Representation of Union Territories

- The representatives of each union territory in the Rajya Sabha are indirectly elected by members of an electoral college specially constituted for the purpose. This election is also held in accordance with the system of proportional representation by means of the single transferable vote. Out of the nine union territories, only three (Delhi, Puducherry and Jammu & Kashmir) have representation in Rajya Sabha. The populations of other six union territories are too small to have any representative in the Rajya Sabha.

### 3. Nominated Members

- The president nominates 12 members to the Rajya Sabha from people who have special knowledge or practical experience in art, literature, science and social service. The rationale behind this principle of nomination is to provide eminent persons a place in the Rajya Sabha without going through the process of election. It should be noted here that the American Senate has no nominated members.

# DURATION OF RAJYA SABHA

The Rajya Sabha (first constituted in 1952) is a continuing chamber, that is, it is a permanent body and not subject to dissolution. However, one-third of its members retire every second year. Their seats are filled up by fresh elections and presidential nominations at the beginning of every third year. The retiring members are eligible for re-election and renomination any number of times.

The Constitution has not fixed the term of office of members of the Rajya Sabha and left it to the Parliament. Accordingly, the Parliament in the Representation of the People Act (1951) provided that the term of office of a member of the Rajya Sabha shall be six years.



# Qualifications

1. He must be a citizen of India.
2. He must make and subscribe to an oath or affirmation before the person authorised by the election commission for this purpose. In his oath or affirmation, he swears : (a) To bear true faith and allegiance to the Constitution of India & (b) To uphold the sovereignty and integrity of India
3. He must be not less than 30 years of age in the case of the Rajya Sabha
4. He must possess other qualifications prescribed by Parliament.

# PRESIDING OFFICER OF RAJYA SABHA

- Each House of Parliament has its own presiding officer. There is a Chairman and a Deputy Chairman for the Rajya Sabha.
- A panel of vice-chairpersons for the Rajya Sabha is also appointed.
- The presiding officer of the Rajya Sabha is known as the Chairman. The vice-president of India is the *ex-officio* Chairman of the Rajya Sabha. During any period when the VicePresident acts as President or discharges the functions of the President, he does not perform the duties of the office of the Chairman of Rajya Sabha.
- The Chairman of the Rajya Sabha can be removed from his office only if he is removed from the office of the Vice-President

- (\*\*) The Chairman is not a member of the House.
- Chairman cannot vote in the first instance. He can cast a vote in the case of an equality of votes.
- The Vice-President cannot preside over a sitting of the Rajya Sabha as its Chairman when a resolution for his removal is under consideration. However, he can be present and speak in the House and can take part in its proceedings, without voting, even at such a time.
- During any period when the Vice-President acts as President or discharges the functions of the President, he is not entitled to any salary or allowance payable to the Chairman of the Rajya Sabha. But he is paid the salary and allowance of the President during such a time



# Deputy Chairman of Rajya Sabha

The Deputy Chairman is elected by the Rajya Sabha itself from amongst its members. Whenever the office of the Deputy Chairman falls vacant, the Rajya Sabha elects another member to fill the vacancy.

The Deputy Chairman vacates his office in any of the following three cases:

1. if he ceases to be a member of the Rajya Sabha;
2. if he resigns by writing to the Chairman; and
3. if he is removed by a resolution passed by a majority of all the then members of the Rajya Sabha. Such a resolution can be moved only after giving 14 days' advance notice.

The Deputy Chairman performs the duties of the Chairman's office when it is vacant or when the Vice-President acts as President or discharges the functions of the President. He also acts as the Chairman when the latter is absent from the sitting of the House. In both the cases, he has all the powers of the Chairman. It should be emphasised here that the Deputy Chairman is not subordinate to the Chairman. He is directly responsible to the Rajya Sabha.

# Panel of Vice-Chairpersons of Rajya Sabha

- Under the Rules of Rajya Sabha, the Chairman nominates from amongst the members a panel of vice-chairpersons. Any one of them can preside over the House in the absence of the Chairman or the Deputy Chairman. He has the same powers as the Chairman when so presiding. He holds office until a new panel of vice-chairpersons is nominated. When a member of the panel of vicechairpersons is also not present, any other person as determined by the House acts as the Chairman.
- It must be emphasised here that a member of the panel of vicechairpersons cannot preside over the House, when the office of the Chairman or the Deputy Chairman is vacant. During such time, the Chairman's duties are to be performed by such member of the House as the president may appoint for the purpose. The elections are held, as soon as possible, to fill the vacant posts.

LOK SABHA



# Composition of Lok Sabha

- The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members are to be nominated by the president from the Anglo-Indian community .
- At present, the Lok Sabha has 545 members. Of these, 530 members represent the states, 13 members represent the union territories and 2 Anglo-Indian members are nominated by the President

## 1. Representation of States

- The representatives of states in the Lok Sabha are directly elected by the people from the territorial constituencies in the states. The election is based on the principle of universal adult franchise.
- (\*\*) The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

## 2. Representation of Union Territories

- The Constitution has empowered the Parliament to prescribe the manner of choosing the representatives of the union territories in the Lok Sabha.
- Accordingly, the Parliament has enacted the Union Territories (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the union territories are also chosen by direct election

- **Territorial Constituencies**

For the purpose of holding direct elections to the Lok Sabha, each state is divided into territorial constituencies. In this respect, the Constitution makes the following two provisions:

1. Each state is allotted a number of seats in the Lok Sabha in such a manner that the ratio between that number and its population is the same for all states. This provision does not apply to a state having a population of less than six millions.

2. Each state is divided into territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it is the same throughout the state. In brief, the Constitution ensures that there is uniformity of representation in two respects: (a) between the different states, and b) between the different constituencies in the same state.



# Readjustment after each Census

After every census, a readjustment is to be made in (a) allocation of seats in the Lok Sabha to the states, and (b) division of each state into territorial constituencies. Parliament is empowered determine the authority and the manner in which it is to be made. Accordingly, the Parliament has enacted the Delimitation Commission Acts in 1952, 1962, 1972 and 2002 for this purpose.

The 42nd Amendment Act of 1976 froze the allocation of seats in the Lok Sabha to the states and the division of each state into territorial constituencies till the year 2000 at the 1971 level. This ban on readjustment was extended for another 25 years (ie, upto year 2026) by the 84th Amendment Act of 2001, with the same objective of encouraging population limiting measures.

The 84th Amendment Act of 2001 also empowered the government to undertake readjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census. Later, the 87th Amendment Act of 2003 provided for the delimitation of constituencies on the basis of 2001 census and not 1991 census. However, this can be done without altering the number of seats allotted to each state in the Lok Sabha.

# Duration of Lok Sabha

- Unlike the Rajya Sabha, the Lok Sabha is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves. However, the President is authorised to dissolve the Lok Sabha at any time even before the completion of five years and this cannot be challenged in a court of law.
- Further, the term of the Lok Sabha can be extended during the period of national emergency by a law of Parliament for one year at a time for any length of time. However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate

# Qualifications

- 1. He must be a citizen of India.
- 2. He must make and subscribe to an oath or affirmation before the person authorised by the election commission for this purpose. In his oath or affirmation, he swears
  - (a) To bear true faith and allegiance to the Constitution of India
  - (b) To uphold the sovereignty and integrity of India
- 3. He must be not less than 30 years of age in the case of the Rajya Sabha and not less than 25 years of age in the case of the Lok Sabha.
- 4. He must possess other qualifications prescribed by Parliament.



# Disqualifications

- Under the Constitution, a person shall be disqualified for being elected as a member of Parliament :
  1. if he holds any office of profit under the Union or state government (except that of a minister or any other office exempted by Parliament).<sup>8</sup>
  2. if he is of unsound mind and stands so declared by a court.
  3. if he is an undischarged insolvent.
  4. if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and
  5. if he is so disqualified under any law made by Parliament.

- The Parliament has laid down the following additional disqualifications in the Representation of People Act (1951):
  1. He must not have been found guilty of certain election offences or corrupt practices in the elections.
  2. He must not have been convicted for any offence resulting in imprisonment for two or more years. But, the detention of a person under a preventive detention law is not a disqualification.
  3. He must not have failed to lodge an account of his election expenses within the time.
  4. He must not have any interest in government contracts, works or services.
  5. He must not be a director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share.
  6. He must not have been dismissed from government service for corruption or disloyalty to the State.
  7. He must not have been convicted for promoting enmity between different groups or for the offence of bribery.
  8. He must not have been punished for preaching and practising social crimes such as untouchability, dowry and sati.

- On the question whether a member is subject to any of the disqualifications noted before, the president's decision is final. However, he should obtain the opinion of the election commission and act accordingly.



# Disqualification on Ground of Defection

- The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule. A member incurs disqualification under the defection law:
  1. if he voluntarily gives up the membership of the political party on whose ticket he is elected to the House;
  2. if he votes or abstains from voting in the House contrary to any direction given by his political party;
  3. if any independently elected member joins any political party; and
  4. if any nominated member joins any political party after the expiry of six months.

The question of disqualification under the Tenth Schedule is decided by the Chairman in the case of Rajya Sabha and Speaker in the case of Lok Sabha (and not by the president of India). In 1992, the Supreme Court ruled that the decision of the Chairman/ Speaker in this regard is subject to judicial review.

# Vacating of Seats

- **Double Membership**: A person cannot be a member of both Houses of Parliament at the same time.
- **Disqualification**: If a member of Parliament becomes subject to any of the disqualifications specified in the Constitution, his seat becomes vacant
- **Resignation**: A member may resign his seat by writing to the Chairman of Rajya Sabha or Speaker of Lok Sabha, as the case may be. The seat falls vacant when the resignation is accepted
- **Absence**: A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission. In computing the period of sixty days, no account shall be taken of any period during which the House is prorogued or adjourned for more than four consecutive days

- Other cases:
- (a) if his election is declared void by the court;
- (b) if he is expelled by the House;
- (c) if he is elected to the office of President or Vice-President;
- (d) if he is appointed to the office of governor of a state



# PRESIDING OFFICER

There is a Speaker and a Deputy Speaker for the Lok Sabha and a panel of chairpersons for the Lok Sabha.

## **Speaker of Lok Sabha :**

- The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting). Whenever the office of the Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy. The date of election of the Speaker is fixed by the President.
- The Speaker is the head of the Lok Sabha, and its representative. He is the guardian of powers and privileges of the members, the House as a whole and its committees. He is the principal spokesman of the House, and his decision in all Parliamentary matters is final. He is thus much more than merely the presiding officer of the Lok Sabha. In these capacities, he is vested with vast, varied and vital responsibilities and enjoys great honour, high dignity and supreme authority within the House.

- The Speaker of the Lok Sabha derives his powers and duties from three sources, that is, the Constitution of India, the Rules of Procedure and Conduct of Business of Lok Sabha, and Parliamentary Conventions (residuary powers that are unwritten or unspecified in the Rules).
- **Powers of Speaker :**
  1. He maintains order and decorum in the House for conducting its business and regulating its proceedings. This is his primary responsibility and he has final power in this regard.
  2. He is the final interpreter of the provisions of (a) the Constitution of India, (b) the Rules of Procedure and Conduct of Business of Lok Sabha, and (c) the parliamentary precedents, within the House.
  3. He adjourns the House or suspends the meeting in absence of a quorum. The quorum to constitute a meeting of the House is one-tenth of the total strength of the House.
  4. He does not vote in the first instance. But he can exercise a casting vote in the case of a tie. In other words, only when the House is divided equally on any question, the Speaker is entitled to vote. Such vote is called casting vote, and its purpose is to resolve a deadlock.
  5. He presides over a joint sitting of the two Houses of Parliament. Such a sitting is summoned by the President to settle a deadlock between the two Houses on a bill.

6. He can allow a 'secret' sitting of the House at the request of the Leader of the House. When the House sits in secret, no stranger can be present in the chamber, lobby or galleries except with the permission of the Speaker.
7. He decides whether a bill is a money bill or not and his decision on this question is final. When a money bill is transmitted to the Rajya Sabha for recommendation and presented to the President for assent, the Speaker endorses on the bill his certificate that it is a money bill.
8. He decides the questions of disqualification of a member of the Lok Sabha, arising on the ground of defection under the provisions of the Tenth Schedule. In 1992, the Supreme Court ruled that the decision of the Speaker in this regard is subject to judicial review .
9. He acts as the *ex-officio chairman of the Indian Parliamentary Group* which is a link between the Parliament of India and the various parliaments of the world. He also acts as the *ex-officio chairman of the conference of presiding officers of legislative bodies in the country*.
10. He appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their functioning. He himself is the chairman of the Business Advisory Committee, the Rules Committee and the General Purpose Committee.



# Deputy Speaker of Lok Sabha

- Like the Speaker, the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members. He is elected after the election of the Speaker has taken place. The date of election of the Deputy Speaker is fixed by the Speaker. Whenever the office of the Deputy Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy. Like the Speaker, the Deputy Speaker remains in office usually during the life of the Lok Sabha. However, he may vacate his office earlier in any of the following three cases:
  1. if he ceases to be a member of the Lok Sabha;
  2. if he resigns by writing to the Speaker; and
  3. if he is removed by a resolution passed by a majority of all the then members of the Lok Sabha. Such a resolution can be moved only after giving 14 days' advance notice.

The Deputy Speaker performs the duties of the Speaker's office when it is vacant. He also acts as the Speaker when the latter is absent from the sitting of the House. In both the cases, he assumes all the powers of the Speaker. He also presides over the joint sitting of both the Houses of Parliament, in case the Speaker is absent from such a sitting.

# Speaker Pro Tem

As provided by the Constitution, the Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly-elected Lok Sabha. Therefore, the President appoints a member of the Lok Sabha as the *Speaker Pro Tem*. Usually, the seniormost member is selected for this. The President himself administers oath to the *Speaker Pro Tem*.

The *Speaker Pro Tem* has all the powers of the Speaker. He presides over the first sitting of the newly-elected Lok Sabha. His main duty is to administer oath to the new members. He also enables the House to elect the new Speaker.

When the new Speaker is elected by the House, the office of the *Speaker Pro Tem* ceases to exist. Hence, this office is a temporary office, existing for a few days

# DEVICES OF PARLIAMENTARY PROCEEDINGS

- **Question Hour**

The first hour of every parliamentary sitting is slotted for this. During this time, the members ask questions and the ministers usually give answers. The questions are of three kinds, namely, starred, unstarred and short notice

- A **starred question (distinguished by an asterisk)** requires an oral answer and hence supplementary questions can follow.
- An **unstarred question, on the other hand, requires a written** answer and hence, supplementary questions cannot follow.
- A **short notice question is one that is asked by giving a notice of less than ten days.** It is answered orally.
- In addition to the ministers, the questions can also be asked to the private members. Thus, a question may be addressed to a private member if the subject matter of the question relates to some Bill, resolution or other matter connected with the business of the House for which that member is responsible. The procedure in regard to such question is the same as that followed in the case of questions addressed to a minister.



- **Zero Hour**

- Unlike the question hour, the zero hour is not mentioned in the Rules of Procedure. Thus it is an informal device available to the members of the Parliament to raise matters without any prior notice. The zero hour starts immediately after the question hour and lasts until the agenda for the day (ie, regular business of the House) is taken up. In other words, the time gap between the question hour and the agenda is known as zero hour. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.

# Motions

- No discussion on a matter of general public importance can take place except on a motion made with the consent of the presiding officer. The House expresses its decisions or opinions on various issues through the adoption or rejection of motions moved by either ministers or private members.

# Closure Motion

- It is a motion moved by a member to cut short the debate on a matter before the House. If the motion is approved by the House, debate is stopped forthwith and the matter is put to vote. There are four kinds of closure motions.
- (a) *Simple Closure: It is one when a member moves that the 'matter having been sufficiently discussed be now put to vote'.*
- (b) *Closure by Compartments: In this case, the clauses of a bill or a lengthy resolution are grouped into parts before the commencement of the debate. The debate covers the part as a whole and the entire part is put to vote.*
- (c) *Kangaroo Closure: Under this type, only important clauses are taken up for debate and voting and the intervening clauses are skipped over and taken as passed.*
- (d) *Guillotine Closure: It is one when the undiscussed clauses of a bill or a resolution are also put to vote along with the discussed ones due to want of time (as the time allotted for the discussion is over).*



# Privilege Motion

- It is concerned with the breach of parliamentary privileges by a minister. It is moved by a member when he feels that a minister has committed a breach of privilege of the House or one or more of its members by withholding facts of a case or by giving wrong or distorted facts. Its purpose is to censure the concerned minister.

# Calling Attention Motion

- It is introduced in the Parliament by a member to call the attention of a minister to a matter of urgent public importance, and to seek an authoritative statement from him on that matter. Like the zero hour, it is also an Indian innovation in the parliamentary procedure and has been in existence since 1954. However, unlike the zero hour, it is mentioned in the Rules of Procedure.

# Adjournment Motion

- It is introduced in the Parliament to draw attention of the House to a definite matter of urgent public importance, and needs the support of 50 members to be admitted
- As it interrupts the normal business of the House, it is regarded as an extraordinary device. It involves an element of censure against the government and hence Rajya Sabha is not permitted to make use of this device.
- The discussion on an adjournment motion should last for not less than two hours and thirty minutes.



- The right to move a motion for an adjournment of the business of the House is subject to the following restrictions:
  1. It should raise a matter which is definite, factual, urgent and of public importance;
  2. It should not cover more than one matter;
  3. It should be restricted to a specific matter of recent occurrence and should not be framed in general terms;
  4. It should not raise a question of privilege;
  5. It should not revive discussion on a matter that has been discussed in the same session;
  6. It should not deal with any matter that is under adjudication by court; and
  7. It should not raise any question that can be raised on a distinct motion.

# No-Confidence Motion

- Article 75 of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys confidence of the majority of the members of the Lok Sabha. In other words, the Lok Sabha can remove the ministry from office by passing a noconfidence motion. The motion needs the support of 50 members to be admitted.

# Motion of Thanks

- The first session after each general election and the first session of every fiscal year is addressed by the president. In this address, the president outlines the policies and programmes of the government in the preceding year and ensuing year. This address of the president, which corresponds to the 'speech from the Throne in Britain', is discussed in both the Houses of Parliament on a motion called the 'Motion of Thanks'. At the end of the discussion, the motion is put to vote. This motion must be passed in the House. Otherwise, it amounts to the defeat of the government. This inaugural speech of the president is an occasion available to the members of Parliament to raise discussions and debates to examine and criticise the government and administration for its lapses and failures



# Cut Motion

- Cut Motion is of three types :
- **(a) Policy Cut Motion**  
It represents the disapproval of the policy underlying the demand. It states that the amount of the demand be reduced to Re 1. The members can also advocate an alternative policy.
- **(b) Economy Cut Motion**  
It represents the economy that can be affected in the proposed expenditure. It states that the amount of the demand be reduced by a specified amount (which may be either a lumpsum reduction in the demand or omission or reduction of an item in the demand).
- **(c) Token Cut Motion**  
It ventilates a specific grievance that is within the sphere of responsibility of the Government of India. It states that the amount of the demand be reduced by ₹100

# Quorum

- Quorum is the minimum number of members required to be present in the House before it can transact any business. It is one-tenth of the total number of members in each House including the presiding officer. It means that there must be at least 55 members present in the Lok Sabha and 25 members present in the Rajya Sabha, if any business is to be conducted. If there is no quorum during a meeting of the House, it is the duty of the presiding officer either to adjourn the House or to suspend the meeting until there is a quorum.

# Leader of the House

- Under the Rules of Lok Sabha, the 'Leader of the House' means the prime minister, if he is a member of the Lok Sabha, or a minister who is a member of the Lok Sabha and is nominated by the prime minister to function as the Leader of the House. There is also a 'Leader of the House' in the Rajya Sabha. He is a minister and a member of the Rajya Sabha and is nominated by the prime minister to function as such. The leader of the house in either House is an important functionary and exercises direct influence on the conduct of business. He can also nominate a deputy leader of the House. The same functionary in USA is known as the 'majority leader'.



# Leader of the Opposition

- In each House of Parliament, there is the 'Leader of the Opposition'. The leader of the largest Opposition party having not less than one-tenth seats of the total strength of the House is recognised as the leader of the Opposition in that House. In a parliamentary system of government, the leader of the opposition has a significant role to play. His main functions are to provide a constructive criticism of the policies of the government and to provide an alternative government. Therefore, the leader of Opposition in the Lok Sabha and the Rajya Sabha were accorded statutory recognition in 1977. They are also entitled to the salary, allowances and other facilities equivalent to that of a cabinet minister. It was in 1969 that an official leader of the opposition was recognised for the first time.

- The British political system has a unique institution called the 'Shadow Cabinet'. It is formed by the Opposition party to balance the ruling cabinet and to prepare its members for future ministerial offices. In this shadow cabinet, almost every member in the ruling cabinet is 'shadowed' by a corresponding member in the opposition cabinet. This shadow cabinet serves as the 'alternate cabinet' if there is a change of government.

# Whip

- Though the offices of the leader of the House and the leader of the Opposition are not mentioned in the Constitution of India, they are mentioned in the Rules of the House and Parliamentary Statute respectively. The office of 'whip', on the other hand, is mentioned neither in the Constitution of India nor in the Rules of the House nor in a Parliamentary Statute. It is based on the conventions of the parliamentary government.
- Every political party, whether ruling or Opposition has its own whip in the Parliament. He is appointed by the political party to serve as an assistant floor leader. He is charged with the responsibility of ensuring the attendance of his party members in large numbers and securing their support in favour of or against a particular issue. He regulates and monitors their behaviour in the Parliament. The members are supposed to follow the directives given by the whip. Otherwise, disciplinary action can be taken.



# SESSIONS OF PARLIAMENT

- **Summoning**
- The president from time to time summons each House of Parliament to meet. But, the maximum gap between two sessions of Parliament cannot be more than six months. In other words, the Parliament should meet at least twice a year.

There are usually three sessions in a year, viz,

- 1. the Budget Session (February to May);
- 2. the Monsoon Session (July to September); and
- 3. the Winter Session (November to December).
- A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha). During a session, the House meets everyday to transact business. The period spanning between the prorogation of a House and its reassembly in a new session is called 'recess'

# Adjournment & Adjournment Sine Die

- An adjournment suspends the work in a sitting for a specified time ( both LS and RS ), which may be hours, days or weeks.
- Adjournment *sine die* means terminating a sitting of Parliament for an indefinite period. In other words, when the House is adjourned without naming a day for reassembly, it is called adjournment *sine die*.
- The power of adjournment as well as adjournment *sine die* lies with the presiding officer of the House

# Prorogation

- The presiding officer (Speaker or Chairman) declares the House adjourned *sine die*, when the business of a session is completed.
- Within the next few days, the President issues a notification for prorogation of the session.
- However, the President can also prorogue the House while in session.



# Dissolution

- Rajya Sabha, being a permanent House, is not subject to dissolution.
- Only the Lok Sabha is subject to dissolution
- Unlike a prorogation, a dissolution ends the very life of the existing House, and a new House is constituted after general elections are held.
- Dissolution of the Lok Sabha may take place in either of two ways:
- Automatic dissolution : On the expiry of its tenure of five years or the terms as extended during a national emergency.

- And the other one is : whenever the President decides to dissolve the House, which he is authorised to do. Once the Lok Sabha is dissolved before the completion of its normal tenure, the dissolution is irrevocable.
- When the Lok Sabha is dissolved, all business including bills, motions, resolutions, notices, petitions and so on pending before it or its committees lapse.
- The positions of the bills with respect to lapsing is shown in the next slide

- The position with respect to lapsing of bills is as follows:
- 1. A bill pending in the Lok Sabha lapses (whether originating in the Lok Sabha or transmitted to it by the Rajya Sabha).
- 2. A bill passed by the Lok Sabha but pending in the Rajya Sabha lapses.
- 3. A bill not passed by the two Houses due to disagreement and if the president has notified the holding of a joint sitting before the dissolution of Lok Sabha, does not lapse.
- 4. A bill pending in the Rajya Sabha but not passed by the Lok Sabha does not lapse.
- 5. A bill passed by both Houses but pending assent of the president does not lapse.
- 6. A bill passed by both Houses but returned by the president for reconsideration of Houses does not lapse.



- Some special points with respect to Prorogation :
- It not only terminates a sitting but also a session of the House.
- It is done by the president of India.
- It also does not affect the bills or any other business pending before the House.
- (However, all pending notices (other than those for introducing bills) lapse on prorogation and fresh notices have to be given for the next session. In Britain, prorogation brings to an end all bills or any other business pending before the House)

# Lame-duck Session

- It refers to the last session of the existing Lok Sabha, after a new Lok Sabha has been elected. Those members of the existing Lok Sabha who could not get re-elected to the new Lok Sabha are called lame-ducks

# LEGISLATIVE PROCEDURE IN PARLIAMENT

- The legislative procedure is identical in both the Houses of Parliament. Every bill has to pass through the same stages in each House. A bill is a proposal for legislation and it becomes an act or law when duly enacted.
- Bills introduced in the Parliament are of two kinds: public bills and private bills (also known as government bills and private members' bills respectively).



- The bills introduced in the Parliament can also be classified into four categories:
- 1. Ordinary bills, which are concerned with any matter other than financial subjects.
- 2. Money bills, which are concerned with the financial matters like taxation, public expenditure, etc.
- 3. Financial bills, which are also concerned with financial matters (but are different from money bills).
- 4. Constitution amendment bills, which are concerned with the amendment of the provisions of the Constitution.

# Public Bill

- It is introduced in the Parliament by a minister.
- It reflects of the policies of the government (ruling party).
- It has greater chance to be approved by the Parliament
- Its rejection by the House amounts to the expression of want of parliamentary confidence in the government and may lead to its resignation.
- Its introduction in the House requires seven days' notice
- It is drafted by the concerned department in consultation with the law department.

# Private Bill

- It is introduced by any member of Parliament other than a minister.
- It reflects the stand of opposition party on public matter
- Has lesser chance to be approved by the Parliament
- Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.
- Its introduction in the House requires one month's notice



# Money Bills

- Article 110 of the Constitution deals with the definition of money bills.
- It can be introduced only in the Lok Sabha and not in the Rajya Sabha
- It can be introduced only by a minister
- It can be introduced only on the recommendation of the President.
- It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha

# Money Bills (contd. )

- It can be detained by the Rajya Sabha for a maximum period of 14 days only.
- It requires the certification of the Speaker when transmitted to the Rajya Sabha.
- There is no provision of joint sitting of both the Houses in this regard
- Its defeat in the Lok Sabha leads to the resignation of the government
- It can be rejected or approved but cannot be returned for reconsideration by the President.

# JOINT SITTING OF PARLIAMENT

- Joint sitting ( Article 108 ) is an extraordinary machinery provided by the Constitution to resolve a deadlock between the two Houses over the passage of a bill.
- A deadlock is deemed to have taken place under any one of the following three situations :
  - 1. if the bill is rejected by the other House;
  - 2. if the Houses have finally disagreed as to the amendments to be made in the bill; or
  - 3. if more than six months have elapsed from the date of the receipt of the bill by the other House without the bill being passed by it.



- In the above three situations, the **president can summon both the Houses to meet in a joint sitting** for the purpose of deliberating and voting on the bill
- It must be noted here that the provision of joint sitting is applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills
- The Speaker of Lok Sabha presides over a joint sitting of the two Houses and the Deputy Speaker, in his absence. If the Deputy Speaker is also absent from a joint sitting, the Deputy Chairman of Rajya Sabha presides. If he is also absent, such other person as may be determined by the members present at the joint sitting, presides over the meeting. It is clear that the Chairman of Rajya Sabha does not preside over a joint sitting as he is not a member of either House of Parliament

# Funds

The Constitution of India provides for the following three kinds of funds for the Central government:

- 1. Consolidated Fund of India (Article 266)
- 2. Public Account of India (Article 266)
- 3. Contingency Fund of India (Article 267)