



## Parliament

**T**he 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<sup>1</sup>.

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.

### ORGANISATION OF 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. He

also performs certain functions relating to the proceedings of the Parliament, for example, he summons and pro-rogues both the Houses, dissolves the Lok Sabha, addresses both the Houses, issues ordinances when they are not in session, and so on.

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).

The parliamentary form of government emphasises on the interdependence between the legislative and executive organs. Hence, we have the ‘President-in-Parliament’ like the ‘Crown-in-Parliament’ in Britain. The presidential form of government, on the other hand, lays stress on the separation of legislative and executive organs. Hence, *the American president is not regarded as a constituent part of the Congress*.

## COMPOSITION OF THE TWO HOUSES

### 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<sup>2</sup>.

**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. However, in USA, all states are given equal representation in the Senate irrespective of their population. USA has 50 states and the Senate has 100 members—2 from each state.

**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 seven union territories, only two (Delhi and Puducherry) have representation in Rajya Sabha. The populations of other five 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.

## **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<sup>3</sup>.

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<sup>4</sup>.

**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.

Every Indian citizen who is above 18 years of age and who is not disqualified under the provisions of the Constitution or any law is eligible to vote at such election. 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.

**3. Nominated Members** The president can nominate two members from the Anglo-Indian community if the community is not adequately represented in the Lok Sabha. Originally, this provision was to operate till 1960 but has been extended till 2020 by the 95th Amendment Act, 2009.

## **SYSTEM OF ELECTIONS TO LOK SABHA**

The various aspects related to the system of elections to the Lok Sabha are as follows:

### **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.

The expression 'population' means the population as ascertained at the preceding census of which the relevant figures have been published.

## **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 to 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.

## **Reservation of Seats for SCs and STs**

Though the Constitution has abandoned the system of communal representation, it provides for the reservation of seats for scheduled castes and scheduled tribes in the Lok Sabha on the basis of population ratios<sup>5</sup>.

Originally, this reservation was to operate for ten years (ie, up to 1960), but it has been extended continuously since then by 10 years each time. Now, under the 95th Amendment Act of 2009, this reservation is to last until 2020.

Though seats are reserved for scheduled castes and scheduled tribes, they are elected by all the voters in a constituency, without any separate electorate. A member of scheduled castes and scheduled tribes is also not debarred from

contesting a general (non-reserved) seat.

The 84th Amendment Act of 2001 provided for refixing of the reserved seats on the basis of the population figures of 1991 census as applied to rationalisation of the general seats. Later, the 87th Amendment Act of 2003 provided for the refixing of the reserved seats on the basis of 2001 census and not 1991 census.

## **Proportional Representation not Adopted**

Though the Constitution has adopted the system of proportional representation in the case of Rajya Sabha, it has not preferred the same system in the case of Lok Sabha. Instead, it has adopted the system of territorial representation for the election of members to the Lok Sabha.

Under territorial representation, every member of the legislature represents a geographical area known as a constituency. From each constituency, only one representative is elected. Hence such a constituency is known as single-member constituency. In this system, a candidate who secures majority of votes is declared elected. This simple majority system of representation does not represent the whole electorate. In other words, it does not secure due representation to minorities (small groups).

The system of proportional representation aims at removing the defects of territorial representation. Under this system, all sections of the people get representation in proportion to their number. Even the smallest section of the population gets its due share of representation in the legislature.

There are two kinds of proportional representation, namely, single transferable vote system and list system. In India, the first kind is adopted for the election of members to the Rajya Sabha and state legislative council and for electing the President and the Vice-President.

Though some members of the Constituent Assembly had advocated the system of proportional representation for the election of members to the Lok Sabha, the Constitution has not adopted the system due to two reasons.

1. Difficulty for the voters to understand the system (which is complicated) due to low literacy scale in the country.
2. Unsuitability to the parliamentary government due to the tendency of the

system to multiply political parties leading to instability in government.

Additionally, the system of proportional representation has the following demerits:

1. It is highly expensive.
2. It does not give any scope for organising by-elections.
3. It eliminates intimate contacts between voters and representatives.
4. It promotes minority thinking and group interests.
5. It increases the significance of party system and decreases that of voter.

## **DURATION OF TWO HOUSES**

### **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. The act also empowered the president of India to curtail the term of members chosen in the first Rajya Sabha. In the first batch, it was decided by lottery as to who should retire. Further, the act also authorised the President to make provisions to govern the order of retirement of the members of the Rajya Sabha<sup>6</sup>.

### **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 be a law of Parliament for one year at a time<sup>7</sup> for any length of time. However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate.

## **MEMBERSHIP OF PARLIAMENT**

### **Qualifications**

The Constitution lays down the following qualifications for a person to be chosen a member of the Parliament:

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.

The Parliament has laid down the following additional qualifications in the Representation of People Act (1951).

1. He must be registered as an elector for a parliamentary constituency. This is same in the case of both, the Rajya Sabha and the Lok Sabha. The requirement that a candidate contesting an election to the Rajya Sabha from a particular state should be an elector in that particular state was dispensed with in 2003. In 2006, the Supreme Court upheld the constitutional validity of this change.
2. He must be a member of a scheduled caste or scheduled tribe in any state or union territory, if he wants to contest a seat reserved for them. However, a member of scheduled castes or scheduled tribes can also contest a seat not reserved for them.

### **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 above disqualifications, 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

In the following cases, a member of Parliament vacates his seat.

**1. Double Membership** A person cannot be a member of both Houses of Parliament at the same time. Thus, the Representation of People Act (1951) provides for the following:

- (a) If a person is elected to both the Houses of Parliament, he must intimate within 10 days in which House he desires to serve. In default of such intimation, his seat in the Rajya Sabha becomes vacant.
- (b) If a sitting member of one House is also elected to the other House, his seat in the first House becomes vacant.
- (c) If a person is elected to two seats in a House, he should exercise his option for one. Otherwise, both seats become vacant.

Similarly, a person cannot be a member of both the Parliament and the state legislature at the same time. If a person is so elected, his seat in Parliament becomes vacant if he does not resign his seat in the state legislature within 14 days<sup>9</sup>.

**2. Disqualification** If a member of Parliament becomes subject to any of the disqualifications specified in the Constitution, his seat becomes vacant. Here, the list of disqualifications also include the disqualification on the grounds of defection under the provisions of the Tenth Schedule of the

Constitution.

**3. 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. However, the Chairman/Speaker may not accept the resignation if he is satisfied that it is not voluntary or genuine.

**4. 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.

**5. Other cases** A member has to vacate his seat in the Parliament:

- (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; and
- (d) if he is appointed to the office of governor of a state.

If a disqualified person is elected to the Parliament, the Constitution lays down no procedure to declare the election void. This matter is dealt by the Representation of the People Act (1951), which enables the high court to declare an election void if a disqualified candidate is elected. The aggrieved party can appeal to the Supreme Court against the order of the high court in this regard.

## **Oath or Affirmation**

Every member of either House of Parliament, before taking his seat in the House, has to make and subscribe to an oath or affirmation before the President or some person appointed by him for this purpose. In his oath or affirmation, a member of Parliament swears:

1. to bear true faith and allegiance to the Constitution of India;
2. to uphold the sovereignty and integrity of India; and
3. to faithfully discharge the duty upon which he is about to enter.

Unless a member takes the oath, he cannot vote and participate in the

proceedings of the House and does not become eligible to parliamentary privileges and immunities.

A person is liable to a penalty of Rs 500 for each day he sits or votes as a member in a House in the following conditions:

1. Before taking and subscribing to the prescribed oath or affirmation; or
2. When he knows that he is not qualified or that he is disqualified for its membership; or
3. When he knows that he is prohibited from sitting or voting in the House by virtue of any parliamentary law.

## **Salaries and Allowances**

Members of either House of Parliament are entitled to receive such salaries and allowances as may be determined by Parliament, and there is no provision of pension in the Constitution. However, Parliament has provided pension to the members.

In 1954, the Parliament enacted the Salaries, Allowances and Pension of Members of Parliament Act. In 2010, the Parliament increased the salary of members from ₹16,000 to ₹50,000 per month, the constituency allowance from ₹20,000 to ₹45,000 per month, the daily allowance from ₹1,000 to ₹2,000 (for each day of residence on duty) and office expenses allowance from ₹20,000 to ₹45,000 per month.

From 1976, the members are also entitled to a pension on a graduated scale for each five-year-term as members of either House of Parliament. Besides, they are provided with travelling facilities, free accommodation, telephone, vehicle advance, medical facilities and so on.

The salaries and allowances of the Speaker of Lok Sabha and the Chairman of Rajya Sabha are also determined by Parliament. They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.

In 1953, the Parliament enacted the Salaries and Allowances of Officers of Parliament Act. Under this Act (as amended), the salary of the Chairman of Rajya Sabha has been fixed at ₹1.25 lakh per month.<sup>9a</sup> Similarly, other Officers of Parliament (i.e., the Speaker and the Deputy Speaker of the Lok

Sabha and the Deputy Chairman of the Rajya Sabha) are entitled to receive a salary per month at the same rates as are payable to the Members of Parliament.<sup>9b</sup> Further, each Officer of Parliament (including the Chairman of the Rajya Sabha) is entitled to receive a daily allowance (for each day during the whole of his term) at the same rates as is payable to the Members of Parliament.<sup>9c</sup> Also, each Officer of Parliament (other than the Chairman of the Rajya Sabha) is entitled to receive a constituency allowance at the same rate as is payable to the Members of Parliament.<sup>9d</sup>

According to the same Act, the sumptuary allowance is paid to the Speaker of the Lok Sabha at the same rate as is payable to a Cabinet Minister<sup>9e</sup> (i.e., ₹ 2,000 per month). Likewise, the sumptuary allowance is paid to the Deputy Speaker of the Lok Sabha and the Deputy Chairman of the Rajya Sabha at the same rate as is payable to a Minister of State<sup>9f</sup> (i.e., ₹1000 per month).

## **PRESIDING OFFICERS OF PARLIAMENT**

Each House of Parliament has its own presiding officer. There is a Speaker and a Deputy Speaker for the Lok Sabha and a Chairman and a Deputy Chairman for the Rajya Sabha. A panel of chairpersons for the Lok Sabha and a panel of vice-chairpersons for the Rajya Sabha is also appointed.

### **Speaker of Lok Sabha**

**Election and Tenure** 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.

Usually, the Speaker remains in office during the life of the Lok Sabha. However, he has to 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 Deputy Speaker; and
3. if he is removed by a resolution passed by a majority of all the members of the Lok Sabha. Such a resolution can be moved only after giving 14 days' advance notice.

When a resolution for the removal of the Speaker is under consideration of the House, he cannot preside at the sitting of the House, though he may be present. However, he can speak and take part in the proceedings of the House at such a time and vote in the first instance, though not in the case of an equality of votes.

It should be noted here that, whenever the Lok Sabha is dissolved, the Speaker does not vacate his office and continues till the newly-elected Lok Sabha meets.

**Role, Powers and Functions** The Speaker is the head of the Lok Sabha, and its representative. He is the guardian of powers and privileges of the members, the House as a whole and its committees. 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). Altogether, he has the following powers and duties:

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<sup>10</sup>.
9. He acts as the *ex-officio* chairman of the Indian Parliamentary Group which acts as 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.

**Independence and Impartiality** As the office of the Speaker is vested with great prestige, position and authority, independence and impartiality becomes its *sine qua non*<sup>11</sup>.

The following provisions ensure the independence and impartiality of the office of the Speaker:

1. He is provided with a security of tenure. He can be removed only by a resolution passed by the Lok Sabha by an absolute majority (ie, a majority of the total members of the House) and not by an ordinary majority (ie, a majority of the members present and voting in the House). This motion of removal can be considered and discussed only when it has the support of at least 50 members.
2. His salaries and allowances are fixed by Parliament. They are charged on



the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.

3. His work and conduct cannot be discussed and criticised in the Lok Sabha except on a substantive motion.
4. His powers of regulating procedure or conducting business or maintaining order in the House are not subject to the jurisdiction of any Court.
5. He cannot vote in the first instance. He can only exercise a casting vote in the event of a tie. This makes the position of Speaker impartial.
6. He is given a very high position in the order of precedence. He is placed at seventh rank, along with the Chief Justice of India. This means, he has a higher rank than all cabinet ministers, except the Prime Minister or Deputy Prime Minister.

In Britain, the Speaker is strictly a non-party man. There is a convention that the Speaker has to resign from his party and remain politically neutral. This healthy convention is not fully established in India where the Speaker does not resign from the membership of his party on his election to the exalted office.

## **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 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.

It should be noted here that the Deputy Speaker is not subordinate to the Speaker. He is directly responsible to the House.

The Deputy Speaker has one special privilege, that is, whenever he is appointed as a member of a parliamentary committee, he automatically becomes its chairman.

Like the Speaker, the Deputy Speaker, while presiding over the House, cannot vote in the first instance; he can only exercise a casting vote in the case of a tie. Further, when a resolution for the removal of the Deputy Speaker is under consideration of the House, he cannot preside at the sitting of the House, though he may be present.

When the Speaker presides over the House, the Deputy Speaker is like any other ordinary member of the House. He can speak in the House, participate in its proceedings and vote on any question before the House.

The Deputy Speaker is entitled to a regular salary and allowance fixed by Parliament, and charged on the Consolidated Fund of India.

Upto the 10th Lok Sabha, both the Speaker and the Deputy Speaker were usually from the ruling party. Since the 11th Lok Sabha, there has been a consensus that the Speaker comes from the ruling party (or ruling alliance) and the post of Deputy Speaker goes to the main opposition party.

The Speaker and the Deputy Speaker, while assuming their offices, do not make and subscribe any separate oath or affirmation.

The institutions of Speaker and Deputy Speaker originated in India in 1921 under the provisions of the Government of India Act of 1919 (Montague–Chelmsford Reforms). At that time, the Speaker and the Deputy Speaker were called the President and Deputy President respectively and the same nomenclature continued till 1947. Before 1921, the Governor-General of India used to preside over the meetings of the Central Legislative Council. In 1921, the Frederick Whyte and Sachidanand Sinha were appointed by the Governor-General of India as the first Speaker and the first Deputy Speaker (respectively) of the central legislative assembly. In 1925, Vithalbhai J. Patel became the first Indian and the first elected Speaker of the central legislative

assembly. The Government of India Act of 1935 changed the nomenclatures of President and Deputy President of the Central Legislative Assembly to the Speaker and Deputy Speaker respectively. However, the old nomenclature continued till 1947 as the federal part of the 1935 Act was not implemented. G V Mavalankar and Ananthasayanam Ayyangar had the distinction of being the first Speaker and the first Deputy Speaker (respectively) of the Lok Sabha. G V Mavalankar also held the post of Speaker in the Constituent Assembly (Legislative) as well as the provisional Parliament. He held the post of Speaker of Lok Sabha continuously for one decade from 1946 to 1956.

## **Panel of Chairpersons of Lok Sabha**

Under the Rules of Lok Sabha, the Speaker nominates from amongst the members a panel of not more than ten chairpersons. Any of them can preside over the House in the absence of the Speaker or the Deputy Speaker. He has the same powers as the Speaker when so presiding. He holds office until a new panel of chairpersons is nominated. When a member of the panel of chairpersons is also not present, any other person as determined by House acts as the Speaker.

It must be emphasised here that a member of the panel of chairpersons cannot preside over the House, when the office of the Speaker or the Deputy Speaker is vacant. During such time, the Speaker'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.

## **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<sup>12</sup>.

## Chairman of Rajya Sabha

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 Vice-President 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. As a presiding officer, the powers and functions of the Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha. However, the Speaker has two special powers which are not enjoyed by the Chairman:

1. The Speaker decides whether a bill is a money bill or not and his decision on this question is final.
2. The Speaker presides over a joint sitting of two Houses of Parliament.

Unlike the Speaker (who is a member of the House), the Chairman is not a member of the House. But like the Speaker, the Chairman also cannot vote in the first instance. He too 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 (while the Speaker can vote in the first instance when a resolution for his removal is under consideration of the Lok Sabha).

As in case of the Speaker, the salaries and allowances of the Chairman are also fixed by the Parliament. They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.

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 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 Chair-man. He is directly responsible to the Rajya Sabha.

Like the Chairman, the Deputy Chairman, while presiding over the House, cannot vote in the first instance; he can only exercise a casting vote in the case of a tie. Further, when a resolution for the removal of the Deputy Chairman is under consideration of the House, he cannot preside over a sitting of the House, though he may be present.

When the Chairman presides over the House, the Deputy Chairman is like any other ordinary member of the House. He can speak in the House, participate in its proceedings and vote on any question before the House.

Like the Chairman, the Deputy Chairman is also entitled to a regular salary and allowance. They are fixed by Parliament and are charged on the Consolidated Fund of India.

## **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 vice-chairpersons 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 vice-chairpersons 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.

## **Secretariat of Parliament**

Each House of Parliament has separate secretarial staff of its own, though there can be some posts common to both the Houses. Their recruitment and service conditions are regulated by Parliament. The secretariat of each House is headed by a secretary-general. He is a permanent officer and is appointed by the presiding officer of the House.

## **LEADERS IN PARLIAMENT**

### **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 same functionary in USA is known as the ‘minority leader’.

The British political system has an 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 change of government. That is why Ivor Jennings described the leader of Opposition as the ‘alternative Prime Minister’. He enjoys the status of a minister and is paid by the 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

A session of Parliament consists of many meetings. Each meeting of a day consists of two sittings, that is, a morning sitting from 11 am to 1 pm and post-lunch sitting from 2 pm to 6 pm. A sitting of Parliament can be terminated by adjournment or adjournment *sine die* or prorogation or dissolution (in the case of the Lok Sabha). An adjournment suspends the work in a sitting for a specified time, which may be hours, days or weeks.

### Adjournment Sine Die

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. He can also call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned *sine die*.

## 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.

The specific differences between adjournment and prorogation are summarised in Table 22.1.

**Table 22.1** *Adjournment vs Prorogation*

	<b><i>Adjournment</i></b>		<b><i>Prorogation</i></b>
1.	It only terminates a sitting and not a session of the House.	1.	It not only terminates a sitting but also a session of the House.
2.	It is done by presiding officer of the House.	2.	It is done by the president of India.
3.	It does not affect the bills or any other business pending before the House and the same can be resumed when the House meets again.	3.	It also does not affect the bills or any other business pending before the House. <sup>13</sup> 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.

## **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. The dissolution of the Lok Sabha may take place in either of two ways:

1. Automatic dissolution, that is, on the expiry of its tenure of five years or the terms as extended during a national emergency; or
2. 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. They (to be pursued further) must be reintroduced in the newly-constituted Lok Sabha. However, some pending bills and all pending assurances that are to be examined by the Committee on Government Assurances do not lapse on the dissolution of the Lok Sabha. 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.

## **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.

## **Voting in House**

All matters at any sitting of either House or joint sitting of both the Houses are decided by a majority of votes of the members present and voting, excluding the presiding officer. Only a few matters, which are specifically mentioned in the Constitution like impeachment of the President, amendment of the Constitution, removal of the presiding officers of the Parliament and so on, require special majority, not ordinary majority.

The presiding officer of a House does not vote in the first instance, but exercises a casting vote in the case of an equality of votes. The proceedings of a House are to be valid irrespective of any unauthorised voting or participation or any vacancy in its membership.

The following points can be noted with respect to the voting procedure in the Lok Sabha :

1. On the conclusion of a debate, the Speaker shall put the question and invite those who are in favour of the motion to say 'Aye' and those against the motion to say 'No'.
2. The Speaker shall then say: 'I think the Ayes (or the Noes, as the case may be) have it.' If the opinion of the Speaker as to the decision of a question is not challenged, he shall say twice: The Ayes (or the Noes, as the case may be) have it' and the question before the House shall be determined accordingly.
3. (a) If the opinion of the Speaker as to the decision of a question is challenged, he shall order that the Lobby be cleared.  
(b) After the lapse of three minutes and thirty seconds, he shall put the question a second time and declare whether in his opinion the 'Ayes' or the 'Noes' have it.  
(c) If the opinion so declared is again challenged, he shall direct that the votes be recorded either by operating the automatic vote recorder or

by using 'Aye' and 'No' Slips in the House or by the Members going into the Lobbies.

4. If in the opinion of the Speaker, the Division is unnecessarily claimed, he may ask the members who are for 'Aye' and those for 'No' respectively to rise in their places and, on a count being taken, he may declare the determination of the House. In such a case, the names of the voters shall not be recorded.

## **Language in Parliament**

The Constitution has declared Hindi and English to be the languages for transacting business in the Parliament. However, the presiding officer can permit a member to address the House in his mother-tongue. In both the Houses, arrangements are made for simultaneous translation. Though English was to be discontinued as a floor language after the expiration of fifteen years from the commencement of the Constitution (that is, in 1965), the Official Languages Act (1963) allowed English to be continued along with Hindi.

## **Rights of Ministers and Attorney General**

In addition to the members of a House, every minister and the attorney general of India have the right to speak and take part in the proceedings of either House, any joint sitting of both the Houses and any committee of Parliament of which he is a member, without being entitled to vote. There are two reasons underlying this constitutional provision:

1. A minister can participate in the proceedings of a House, of which he is not a member. In other words, a minister belonging to the Lok Sabha can participate in the proceedings of the Rajya Sabha and vice-versa.
2. A minister, who is not a member of either House, can participate in the proceedings of both the Houses. It should be noted here that a person can remain a minister for six months, without being a member of either House of Parliament.

## **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.

## 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.

The list of starred, unstarred, short notice questions and questions to private members are printed in green, white, light pink and yellow colour, respectively, to distinguish them from one another.

### 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.

The motions moved by the members to raise discussions on various matters fall into three principal categories:<sup>14</sup>

1. **Substantive Motion:** It is a self-contained independent proposal dealing with a very important matter like impeachment of the President or removal of Chief Election Commissioner.
2. **Substitute Motion:** It is a motion that is moved in substitution of an original motion and proposes an alternative to it. If adopted by the House, it supersedes the original motion.
3. **Subsidiary Motion:** It is a motion that, by itself, has no meaning and cannot state the decision of the House without reference to the original motion or proceedings of the House. It is divided into three sub-categories:
  - (a) **Ancillary Motion:** It is used as the regular way of proceeding with various kinds of business.
  - (b) **Superseding Motion:** It is moved in the course of debate on another issue and seeks to supersede that issue.
  - (c) **Amendment:** It seeks to modify or substitute only a part of the original motion.

**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<sup>15</sup>:

- (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.

**Table 22.2** *Censure Motion vs No Confidence Motion*

	<b><i>Censure Motion</i></b>		<b><i>No-Confidence Motion</i></b>
1.	It should state the reasons for its adoption in the Lok Sabha.	1.	It need not state the reasons for its adoption in the Lok Sabha.
2.	It can be moved against an individual minister or a group of ministers or the entire council of ministers.	2.	It can be moved against the entire council of ministers only.
3.	It is moved for censuring the council of ministers for specific policies and actions.	3.	It is moved for ascertaining the confidence of Lok Sabha in the council of ministers.
4.	If it is passed in the Lok Sabha, the council of ministers need not resign from the office.	4.	If it is passed in the Lok Sabha, the council of ministers must resign from office.

**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 no-confidence motion. The motion needs the support of 50 members to be admitted.

**Censure Motion** A censure motion is different from a no-confidence motion as shown in [Table 22.2](#).

**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.

**No-Day-Yet-Named Motion** It is a motion that has been admitted by the Speaker but no date has been fixed for its discussion. The Speaker, after considering the state of business in the House and in consultation with the leader of the House or on the recommendation of the Business Advisory Committee, allots a day or days or part of a day for the discussion of such a motion.

## **Point of Order**

A member can raise a point of order when the proceedings of the House do not follow the normal rules of procedure. A point of order should relate to the interpretation or enforcement of the Rules of the House or such articles of the Constitution that regulate the business of the House and should raise a question that is within the cognizance of the Speaker. It is usually raised by an opposition member in order to control the government. It is an extraordinary device as it suspends the proceedings before the House. No debate is allowed on a point of order.

## **Half-an-Hour Discussion**

It is meant for discussing a matter of sufficient public importance, which has been subjected to a lot of debate and the answer to which needs elucidation on a matter of fact. The Speaker can allot three days in a week for such discussions. There is no formal motion or voting before the House.

## Short Duration Discussion

It is also known as two-hour discussion as the time allotted for such a discussion should not exceed two hours. The members of the Parliament can raise such discussions on a matter of urgent public importance. The Speaker can allot two days in a week for such discussions. There is neither a formal motion before the house nor voting. This device has been in existence since 1953.

## Special Mention

A matter which is not a point of order or which cannot be raised during question hour, half-an hour discussion, short duration discussion or under adjournment motion, calling attention notice or under any rule of the House can be raised under the special mention in the Rajya Sabha. Its equivalent procedural device in the Lok Sabha is known as ‘Notice (Mention) Under Rule 377’.

## Resolutions

The members can move resolutions to draw the attention of the House or the government to matters of general public interest. The discussion on a resolution is strictly relevant to and within the scope of the resolution. A member who has moved a resolution or amendment to a resolution cannot withdraw the same except by leave of the House.

Resolutions are classified into three categories:<sup>16</sup>

1. *Private Member's Resolution*: It is one that is moved by a private member (other than a minister). It is discussed only on alternate Fridays and in the afternoon sitting.
2. *Government Resolution*: It is one that is moved by a minister. It can be taken up any day from Monday to Thursday.
3. *Statutory Resolution*: It can be moved either by a private member or a minister. It is so called because it is always tabled in pursuance of a provision in the Constitution or an Act of Parliament.

Resolutions are different from motions in the following respects:

“All resolutions come in the category of substantive motions, that is to say, every resolution is a particular type of motion. All motions need not necessarily be substantive. Further, all motions are not necessarily put to vote of the House, whereas all the resolutions are required to be voted upon.”<sup>17</sup>

## **Youth Parliament**

The scheme of Youth Parliament was started on the recommendation of the Fourth All India Whips Conference. Its objectives are:

1. to acquaint the younger generations with practices and procedures of Parliament;
2. to imbibe the spirit of discipline and tolerance cultivating character in the minds of youth; and
3. to inculcate in the student community the basic values of democracy and to enable them to acquire a proper perspective on the functioning of democratic institutions.

The ministry of parliamentary affairs provides necessary training and encouragement to the states in introducing the scheme.

## **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). Though both are governed by the same general procedure and pass through the same stages in the House, they differ in various respects as shown in [Table 22.3](#).

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.

**Table 22.3** *Public Bill vs Private Bill*

	<b><i>Public Bill</i></b>		<b><i>Private Bill</i></b>
1.	It is introduced in the Parliament by a minister.	1.	It is introduced by any member of Parliament other than a minister.
2.	It reflects of the policies of the government (ruling party).	2.	It reflects the stand of opposition party on public matter.
3.	It has greater chance to be approved by the Parliament.	3.	It has lesser chance to be approved by the Parliament.
4.	Its rejection by the House amounts to the exp-ression of want of parliamentary confidence in the government and may lead to its resignation.	4.	Its rejection by the House has no implication on the parliamentary confidence in the government or its resignation.
5.	Its introduction in the House requires seven days' notice.	5.	Its introduction in the House requires one month's notice.
6.	It is drafted by the concerned department in consultation with the law department.	6.	Its drafting is the responsibility of the member concerned.

The Constitution has laid down separate procedures for the enactment of all the four types of bills. The procedures with regard to ordinary bills, money bills and financial bills are explained here. The procedure with regard to Constitution amendment bills is explained in detail in [Chapter 10](#).

# Ordinary Bills

Every ordinary bill has to pass through the following five stages in the Parliament before it finds a place on the Statute Book:

**1. First Reading** An ordinary bill can be introduced in either House of Parliament. Such a bill can be introduced either by a minister or by any other member. The member who wants to introduce the bill has to ask for the leave of the House. When the House grants leave to introduce the bill, the mover of the bill introduces it by reading its title and objectives. No discussion on the bill takes place at this stage. Later, the bill is published in the Gazette of India. If a bill is published in the Gazette before its introduction, leave of the House to introduce the bill is not necessary.<sup>18</sup> The introduction of the bill and its publication in the Gazette constitute the first reading of the bill.

**2. Second Reading** During this stage, the bill receives not only the general but also the detailed scrutiny and assumes its final shape. Hence, it forms the most important stage in the enactment of a bill. In fact, this stage involves three more sub-stages, namely, stage of general discussion, committee stage and consideration stage.

*(a) Stage of General Discussion* The printed copies of the bill are distributed to all the members. The principles of the bill and its provisions are discussed generally, but the details of the bill are not discussed.

At this stage, the House can take any one of the following four actions:

- (i) It may take the bill into consideration immediately or on some other fixed date;
- (ii) It may refer the bill to a select committee of the House;
- (iii) It may refer the bill to a joint committee of the two Houses; and
- (iv) It may circulate the bill to elicit public opinion.

A Select Committee consists of members of the House where the bill has originated and a joint committee consists of members of both the Houses of Parliament.

*(b) Committee Stage* The usual practice is to refer the bill to a select



committee of the House. This committee examines the bill thoroughly and in detail, clause by clause. It can also amend its provisions, but without altering the principles underlying it. After completing the scrutiny and discussion, the committee reports the bill back to the House.

*(c) Consideration Stage* The House, after receiving the bill from the select committee, considers the provisions of the bill clause by clause. Each clause is discussed and voted upon separately. The members can also move amendments and if accepted, they become part of the bill.

**3. Third Reading** At this stage, the debate is confined to the acceptance or rejection of the bill as a whole and no amendments are allowed, as the general principles underlying the bill have already been scrutinised during the stage of second reading. If the majority of members present and voting accept the bill, the bill is regarded as passed by the House. Thereafter, the bill is authenticated by the presiding officer of the House and transmitted to the second House for consideration and approval. A bill is deemed to have been passed by the Parliament only when both the Houses have agreed to it, either with or without amendments.

**4. Bill in the Second House** In the second House also, the bill passes through all the three stages, that is, first reading, second reading and third reading. There are four alternatives before this House:

- (a) it may pass the bill as sent by the first house (ie, without amendments);
- (b) it may pass the bill with amendments and return it to the first House for reconsideration;
- (c) it may reject the bill altogether; and
- (d) it may not take any action and thus keep the bill pending.

If the second House passes the bill without any amendments or the first House accepts the amendments suggested by the second House, the bill is deemed to have been passed by both the Houses and the same is sent to the president for his assent. On the other hand, if the first House rejects the amendments suggested by the second House or the second House rejects the bill altogether or the second House does not take any action for six months, a deadlock is deemed to have taken place. To resolve such a deadlock, the president can summon a joint sitting of the two Houses. If the majority of

members present and voting in the joint sitting approves the bill, the bill is deemed to have been passed by both the Houses.

**5. Assent of the President** Every bill after being passed by both Houses of Parliament either singly or at a joint sitting, is presented to the president for his assent. There are three alternatives before the president:

- (a) he may give his assent to the bill; or
- (b) he may withhold his assent to the bill; or
- (c) he may return the bill for reconsideration of the Houses.

If the president gives his assent to the bill, the bill becomes an act and is placed on the Statute Book. If the President withholds his assent to the bill, it ends and does not become an act. If the President returns the bill for reconsideration and if it is passed by both the Houses again with or without amendments and presented to the President for his assent, the president must give his assent to the bill. Thus, the President enjoys only a “suspensive veto.”<sup>19</sup>

## **Money Bills**

Article 110 of the Constitution deals with the definition of money bills. It states that a bill is deemed to be a money bill if it contains ‘only’ provisions dealing with all or any of the following matters:

1. The imposition, abolition, remission, alteration or regulation of any tax;
2. The regulation of the borrowing of money by the Union government;
3. The custody of the Consolidated Fund of India or the contingency fund of India, the payment of moneys into or the withdrawal of money from any such fund;
4. The appropriation of money out of the Consolidated Fund of India;
5. Declaration of any expenditure charged on the Consolidated Fund of India or increasing the amount of any such expenditure;
6. 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
7. Any matter incidental to any of the matters specified above.

However, a bill is not to be deemed to be a money bill by reason only that it

provides for:

1. the imposition of fines or other pecuniary penalties, or
2. the demand or payment of fees for licenses or fees for services rendered;  
or
3. the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

If any question arises whether a bill is a money bill or not, the decision of the Speaker of the Lok Sabha is final. His decision in this regard cannot be questioned in any court of law or in the either House of Parliament or even the president. When a money bill is transmitted to the Rajya Sabha for recommendation and presented to the president for assent, the Speaker endorses it as a money bill.

The Constitution lays down a special procedure for the passing of money bills in the Parliament. A money bill can only be introduced in the Lok Sabha and that too on the recommendation of the president. Every such bill is considered to be a government bill and can be introduced only by a minister.

After a money bill is passed by the Lok Sabha, it is transmitted to the Rajya Sabha for its consideration. The Rajya Sabha has restricted powers with regard to a money bill. It cannot reject or amend a money bill. It can only make the recommendations. It must return the bill to the Lok Sabha within 14 days, wither with or without recommendations. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha.

If the Lok Sabha accepts any recommendation, the bill is then deemed to have been passed by both the Houses in the modified form. If the Lok Sabha does not accept any recommendation, the bill is then deemed to have passed by both the Houses in the form originally passed by the Lok Sabha without any change.

If the Rajya Sabha does not return the bill to the Lok Sabha within 14 days, the bill is deemed to have been passed by both the Houses in the form originally passed by the Lok Sabha. Thus, the Lok Sabha has more powers than Rajya Sabha with regard to a money bill. On the other hand, both the Houses have equal powers with regard to an ordinary bill.

Finally, when a money bill is presented to the president, he may either give his assent to the bill or withhold his assent to the bill but cannot return the bill

for reconsideration of the Houses. Normally, the president gives his assent to a money bill as it is introduced in the Parliament with his prior permission.

Table 22.4 shows the differences between the procedures for the enactment of ordinary bills and money bills.

## Financial Bills

Financial bills are those bills that deal with fiscal matters, that is, revenue or expenditure. However, the Constitution uses the term ‘financial bill’ in a technical sense. Financial bills are of three kinds:

1. Money bills—Article 110
2. Financial bills (I)—Article 117 (1)
3. Financial bills (II)—Article 117 (3)

This classification implies that money bills are simply a species of financial bills. Hence, all money bills are financial bills but all financial bills are not money bills. Only those financial bills are money bills which contain exclusively those matters which are mentioned in Article 110 of the Constitution. These are also certified by the Speaker of Lok Sabha as money bills. The financial bills (I) and (II), on the other hand, have been dealt with in Article 117 of the Constitution.

**Financial Bills (I)** A financial bill (I) is a bill that contains not only any or all the matters mentioned in Article 110, but also other matters of general legislation. For instance, a bill that contains a borrowing clause, but does not exclusively deal with borrowing. In two respects, a financial bill (I) is similar to a money bill—(a) both of them can be introduced only in the Lok Sabha and not in the Rajya Sabha, and (b) both of them can be introduced only on the recommendation of the president. In all other respects, a financial bill (I) is governed by the same legislative procedure applicable to an ordinary bill. Hence, it can be either rejected or amended by the Rajya Sabha (except that an amendment other than for reduction or abolition of a tax cannot be moved in either House without the recommendation of the president). In case of a disagreement between the two Houses over such a bill, the president can summon a joint sitting of the two Houses to resolve the deadlock. When the bill is presented to the President, he can either give his assent to the bill or

withhold his assent to the bill or return the bill for reconsideration of the Houses.

**Table 22.4 Ordinary Bill Vs Money Bill**

<b>Ordinary Bill</b>	<b>Money Bill</b>
1. It can be introduced either in the Lok Sabha or the Rajya Sabha.	It can be introduced only in the 1. Lok Sabha and not in the Rajya Sabha.
2. It can be introduced either by a minister or by a private member.	2. It can be introduced only by a minister.
3. It is introduced without the recommendation of the president.	3. It can be introduced only on the recommendation of the President.
4. It can be amended or rejected by the Rajya Sabha.	4. 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.
5. It can be detained by the Rajya Sabha for a maximum period of six months.	5. It can be detained by the Rajya Sabha for a maximum period of 14 days only.
6. It does not require the certification of the Speaker when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha).	6. It requires the certification of the Speaker when transmitted to the Rajya Sabha.
7. It is sent for the President's assent only after being approved by both the Houses. In case of a deadlock due to disagreement between the	7. It is sent for the President's assent even if it is approved by only Lok Sabha. There is no chance of any disagreement

two Houses, a joint sitting of both the houses can be summoned by the president to resolve the deadlock.		between the two Houses and hence, there is no provision of joint sitting of both the Houses in this regard.	
8.	Its defeat in the Lok Sabha may lead to the resignation of the government (if it is introduced by a minister).	8.	Its defeat in the Lok Sabha leads to the resignation of the government.
9.	It can be rejected, approved, or returned for reconsideration by the President.	9.	It can be rejected or approved but cannot be returned for reconsideration by the President.

**Financial Bills (II)** A financial bill (II) contains provisions involving expenditure from the Consolidated Fund of India, but does not include any of the matters mentioned in Article 110. It is treated as an ordinary bill and in all respects, it is governed by the same legislative procedure which is applicable to an ordinary bill. The only special feature of this bill is that it cannot be passed by either House of Parliament unless the President has recommended to that House the consideration of the bill. Hence, financial bill (II) can be introduced in either House of Parliament and recommendation of the President is not necessary for its introduction. It can be either rejected or amended by either House of Parliament. In case of a disagreement between the two Houses over such a bill, the President can summon a joint sitting of the two Houses to resolve the deadlock. When the bill is presented to the President, he can either give his assent to the bill or withhold his assent to the bill or return the bill for reconsideration of the Houses.

## JOINT SITTING OF TWO HOUSES

Joint sitting 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 after a bill has been passed by one House and transmitted to the other House:

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. In the case of a money bill, the Lok Sabha has overriding powers, while a Constitutional amendment bill must be passed by each House separately.

In reckoning the period of six months, no account can be taken of any period during which the other House (to which the bill has been sent) is prorogued or adjourned for more than four consecutive days.

If the bill (under dispute) has already lapsed due to the dissolution of the Lok Sabha, no joint sitting can be summoned. But, the joint sitting can be held if the Lok Sabha is dissolved after the President has notified his intention to summon such a sitting (as the bill does not lapse in this case). After the President notifies his intention to summon a joint sitting of the two Houses, none of the Houses can proceed further with the bill.

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.

The quorum to constitute a joint sitting is one-tenth of the total number of members of the two Houses. The joint sitting is governed by the Rules of Procedure of Lok Sabha and not of Rajya Sabha.

If the bill in dispute is passed by a majority of the total number of members of both the Houses present and voting in the joint sitting, the bill is deemed to have been passed by both the Houses. Normally, the Lok Sabha



with greater number wins the battle in a joint sitting.

The Constitution has specified that at a joint sitting, new amendments to the bill cannot be proposed except in two cases:

1. those amendments that have caused final disagreement between the Houses; and
2. those amendments that might have become necessary due to the delay in the passage of the bill.

Since 1950, the provision regarding the joint sitting of the two Houses has been invoked only thrice. The bills that have been passed at joint sittings are:

1. Dowry Prohibition Bill, 1960.<sup>20</sup>
2. Banking Service Commission (Repeal) Bill, 1977.<sup>21</sup>
3. Prevention of Terrorism Bill, 2002.<sup>22</sup>

## **BUDGET IN PARLIAMENT**

The Constitution refers to the budget as the ‘annual financial statement’. In other words, the term ‘budget’ has nowhere been used in the Constitution. It is the popular name for the ‘annual financial statement’ that has been dealt with in Article 112 of the Constitution.

The budget is a statement of the estimated receipts and expenditure of the Government of India in a financial year, which begins on 1 April and ends on 31 March of the following year.

In addition to the estimates of receipts and expenditure, the budget contains certain other elements. Overall, the budget contains the following:

1. Estimates of revenue and capital receipts;
2. Ways and means to raise the revenue;
3. Estimates of expenditure;
4. Details of the actual receipts and expenditure of the closing financial year and the reasons for any deficit or surplus in that year; and
5. Economic and financial policy of the coming year, that is, taxation proposals, prospects of revenue, spending programme and introduction of new schemes/projects.

The Government of India has two budgets, namely, the Railway Budget and the General Budget. While the former consists of the estimates of

receipts and expenditures of only the Ministry of Railways, the latter consists of the estimates of receipts and expenditure of all the ministries of the Government of India (except the railways).

The Railway Budget was separated from the General Budget in 1921 on the recommendations of the Acworth Committee. The reasons or objectives of this separation are as follows:

1. To introduce flexibility in railway finance.
2. To facilitate a business approach to the railway policy.
3. To secure stability of the general revenues by providing an assured annual contribution from railway revenues.
4. To enable the railways to keep their profits for their own development (after paying a fixed annual contribution to the general revenues).

In August 2016, the Central Government decided to merge the railway budget into the general budget. For this purpose, the Finance Ministry has constituted a five-member committee comprising the officials of both the Finance Ministry and the Railway Ministry to work out the modalities for the merger. This move to discard the age-old practice of a separate railway budget is part of Modi government's reform agenda.

## **Constitutional Provisions**

The Constitution of India contains the following provisions with regard to the enactment of budget:

1. The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of estimated receipts and expenditure of the Government of India for that year.
2. No demand for a grant shall be made except on the recommendation of the President.
3. No money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law.
4. No money bill imposing tax shall be introduced in the Parliament except on the recommendation of the President, and such a bill shall not be introduced in the Rajya Sabha.
5. No tax shall be levied or collected except by authority of law.
6. Parliament can reduce or abolish a tax but cannot increase it.

7. The Constitution has also defined the relative roles or position of both the Houses of Parliament with regard to the enactment of the budget in the following way:
  - (a) A money bill or finance bill dealing with taxation cannot be introduced in the Rajya Sabha—it must be introduced only in the Lok Sabha.
  - (b) The Rajya Sabha has no power to vote on the demand for grants; it is the exclusive privilege of the Lok Sabha.
  - (c) The Rajya Sabha should return the Money bill (or Finance bill) to the Lok Sabha within fourteen days. The Lok Sabha can either accept or reject the recommendations made by Rajya Sabha in this regard.
8. The estimates of expenditure embodied in the budget shall show separately the expenditure charged on the Consolidated Fund of India and the expenditure made from the Consolidated Fund of India.
9. The budget shall distinguish expenditure on revenue account from other expenditure.
10. The expenditure charged on the Consolidated Fund of India shall not be submitted to the vote of Parliament. However, it can be discussed by the Parliament.

## **Charged Expenditure**

The budget consists of two types of expenditure—the expenditure ‘charged’ upon the Consolidated Fund of India and the expenditure ‘made’ from the Consolidated Fund of India. The charged expenditure is non-votable by the Parliament, that is, it can only be discussed by the Parliament, while the other type has to be voted by the Parliament. The list of the charged expenditure is as follows:

1. Emoluments and allowances of the President and other expenditure relating to his office.
2. Salaries and allowances of the Chairman and the Deputy Chairman of the Rajya Sabha and the Speaker and the Deputy Speaker of the Lok Sabha.
3. Salaries, allowances and pensions of the judges of the Supreme Court.
4. Pensions of the judges of high courts.
5. Salary, allowances and pension of the Comptroller and Auditor General of

India.

6. Salaries, allowances and pension of the chairman and members of the Union Public Service Commission.
7. Administrative expenses of the Supreme Court, the office of the Comptroller and Auditor General of India and the Union Public Service Commission including the salaries, allowances and pensions of the persons serving in these offices.
8. The debt charges for which the Government of India is liable, including interest, sinking fund charges and redemption charges and other expenditure relating to the raising of loans and the service and redemption of debt.
9. Any sum required to satisfy any judgement, decree or award of any court or arbitral tribunal.
10. Any other expenditure declared by the Parliament to be so charged.

## **Stages in Enactment**

The budget goes through the following six stages in the Parliament:

1. Presentation of budget.
2. General discussion.
3. Scrutiny by departmental committees.
4. Voting on demands for grants.
5. Passing of appropriation bill.
6. Passing of finance bill.

**1. Presentation of Budget** The budget is presented in two parts—Railway Budget and General Budget. Both are governed by the same procedure.

The introduction of Railway Budget precedes that of the General Budget. While the former is presented to the Lok Sabha by the railway minister in the third week of February, the latter is presented to the Lok Sabha by the finance minister on the last working day of February.

The Finance Minister presents the General Budget with a speech known as the ‘budget speech’. At the end of the speech in the Lok Sabha, the budget is laid before the Rajya Sabha, which can only discuss it and has no power to

vote on the demands for grants.

**2. General Discussion** The general discussion on budget begins a few days after its presentation. It takes place in both the Houses of Parliament and lasts usually for three to four days.

During this stage, the Lok Sabha can discuss the budget as a whole or on any question of principle involved therein but no cut motion can be moved nor can the budget be submitted to the vote of the House. The finance minister has a general right of reply at the end of the discussion.

**3. Scrutiny by Departmental Committees** After the general discussion on the budget is over, the Houses are adjourned for about three to four weeks. During this gap period, the 24 departmental standing committees of Parliament examine and discuss in detail the demands for grants of the concerned ministers and prepare reports on them. These reports are submitted to both the Houses of Parliament for consideration.

The standing committee system established in 1993 (and expanded in 2004) makes parliamentary financial control over ministries much more detailed, close, in-depth and comprehensive.

**4. Voting on Demands for Grants** In the light of the reports of the departmental standing committees, the Lok Sabha takes up voting of demands for grants. The demands are presented ministrywise. A demand becomes a grant after it has been duly voted.

Two points should be noted in this context. One, the voting of demands for grants is the exclusive privilege of the Lok Sabha, that is, the Rajya Sabha has no power of voting the demands. Second, the voting is confined to the votable part of the budget—the expenditure charged on the Consolidated Fund of India is not submitted to the vote (it can only be discussed).

While the General Budget has a total of 109 demands (103 for civil expenditure and 6 for defence expenditure), the Railway Budget has 32 demands. Each demand is voted separately by the Lok Sabha. During this stage, the members of Parliament can discuss the details of the budget. They can also move motions to reduce any demand for grant. Such motions are called as ‘cut motion’, which are of three kinds:

*(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 Rs 100.

A cut motion, to be admissible, must satisfy the following conditions:

- (i) It should relate to one demand only.
- (ii) It should be clearly expressed and should not contain arguments or defamatory statements.
- (iii) It should be confined to one specific matter.
- (iv) It should not make suggestions for the amendment or repeal of existing laws.
- (v) It should not refer to a matter that is not primarily the concern of Union government.
- (vi) It should not relate to the expenditure charged on the Consolidated Fund of India.
- (vii) It should not relate to a matter that is under adjudication by a court.
- (viii) It should not raise a question of privilege.
- (ix) It should not revive discussion on a matter on which a decision has been taken in the same session.
- (x) It should not relate to a trivial matter.

The significance of a cut motion lies in: (a) facilitating the initiation of concentrated discussion on a specific demand for grant; and (b) upholding the principle of responsible government by probing the activities of the government. However, the cut motion do not have much utility in practice. They are only moved and discussed in the House but not passed as the government enjoys majority support. Their passage by the Lok Sabha amounts to the expressions of want of parliamentary confidence in the

government and may lead to its resignation.

In total, 26 days are allotted for the voting of demands. On the last day the Speaker puts all the remaining demands to vote and disposes them whether they have been discussed by the members or not. This is known as 'guillotine'.

**5. Passing of Appropriation Bill** The Constitution states that 'no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law'. Accordingly, an appropriation bill is introduced to provide for the appropriation, out of the Consolidated Fund of India, all money required to meet:

- (a) The grants voted by the Lok Sabha.
- (b) The expenditure charged on the Consolidated Fund of India.

No such amendment can be proposed to the appropriation bill in either house of the Parliament that will have the effect of varying the amount or altering the destination of any grant voted, or of varying the amount of any expenditure charged on the Consolidated Fund of India.

The Appropriation Bill becomes the Appropriation Act after it is assented to by the President. This act authorises (or legalises) the payments from the Consolidated Fund of India. This means that the government cannot withdraw money from the Consolidated Fund of India till the enactment of the appropriation bill. This takes time and usually goes on till the end of April. But the government needs money to carry on its normal activities after 31 March (the end of the financial year). To overcome this functional difficulty, the Constitution has authorised the Lok Sabha to make any grant in advance in respect to the estimated expenditure for a part of the financial year, pending the completion of the voting of the demands for grants and the enactment of the appropriation bill. This provision is known as the 'vote on account'. It is passed (or granted) after the general discussion on budget is over. It is generally granted for two months for an amount equivalent to one-sixth of the total estimation.

**6. Passing of Finance Bill** The Finance Bill is introduced to give effect to the financial proposals of the Government of India for the following year. It is subjected to all the conditions applicable to a Money Bill. Unlike the



Appropriation Bill, the amendments (seeking to reject or reduce a tax) can be moved in the case of finance bill.

According to the Provisional Collection of Taxes Act of 1931, the Finance Bill must be enacted (i.e., passed by the Parliament and assented to by the president) within 75 days.

The Finance Act legalises the income side of the budget and completes the process of the enactment of the budget.

## **Other Grants**

In addition to the budget that contains the ordinary estimates of income and expenditure for one financial year, various other grants are made by the Parliament under extraordinary or special circumstances:

**Supplementary Grant** It is granted when the amount authorised by the Parliament through the appropriation act for a particular service for the current financial year is found to be insufficient for that year.

**Additional Grant** It is granted when a need has arisen during the current financial year for additional expenditure upon some new service not contemplated in the budget for that year.

**Excess Grant** It is granted when money has been spent on any service during a financial year in excess of the amount granted for that service in the budget for that year. It is voted by the Lok Sabha after the financial year. Before the demands for excess grants are submitted to the Lok Sabha for voting, they must be approved by the Public Accounts Committee of Parliament.

**Vote of Credit** It is granted for meeting an unexpected demand upon the resources of India, when on account of the magnitude or the indefinite character of the service, the demand cannot be stated with the details ordinarily given in a budget. Hence, it is like a blank cheque given to the Executive by the Lok Sabha.

**Exceptional Grant** It is granted for a special purpose and forms no part of

the current service of any financial year.

**Token Grant** It is granted when funds to meet the proposed expenditure on a new service can be made available by reappropriation. A demand for the grant of a token sum (of Re 1) is submitted to the vote of the Lok Sabha and if assented, funds are made available. Reappropriation involves transfer of funds from one head to another. It does not involve any additional expenditure.

Supplementary, additional, excess and exceptional grants and vote of credit are regulated by the same procedure which is applicable in the case of a regular budget.

## **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)

**Consolidated Fund of India** It is a fund to which all receipts are credited and all payments are debited. In other words, (a) all revenues received by the Government of India; (b) all loans raised by the Government by the issue of treasury bills, loans or ways and means of advances; and (c) all money received by the government in repayment of loans forms the Consolidated Fund of India. All the legally authorised payments on behalf of the Government of India are made out of this fund. No money out of this fund can be appropriated (issued or drawn) except in accordance with a parliamentary law.

**Public Account of India** All other public money (other than those which are credited to the Consolidated Fund of India) received by or on behalf of the Government of India shall be credited to the Public Account of India. This includes provident fund deposits, judicial deposits, savings bank deposits, departmental deposits, remittances and so on. This account is operated by executive action, that is, the payments from this account can by

made without parliamentary appropriation. Such payments are mostly in the nature of banking transactions.

**Contingency Fund of India** The Constitution authorised the Parliament to establish a 'Contingency Fund of India', into which amounts determined by law are paid from time to time. Accordingly, the Parliament enacted the contingency fund of India Act in 1950. This fund is placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament. The fund is held by the finance secretary on behalf of the president. Like the public account of India, it is also operated by executive action.

## **MULTIFUNCTIONAL ROLE OF PARLIAMENT**

In the 'Indian politico-administrative system', the Parliament occupies a central position and has a multifunctional role. It enjoys extensive powers and performs a variety of functions towards the fulfilment of its constitutionally expected role. Its powers and functions can be classified under the following heads:

1. Legislative Powers and Functions
2. Executive Powers and Functions
3. Financial Powers and Functions
4. Constituent Powers and Functions
5. Judicial Powers and Functions
6. Electoral Powers and Functions
7. Other powers and functions.

### **1. Legislative Powers and Functions**

The primary function of Parliament is to make laws for the governance of the country. It has exclusive power to make laws on the subjects enumerated in the Union List (which at present has 100 subjects, originally 97 subjects) and on the residuary subjects (that is, subjects not enumerated in any of the three lists). With regard to Concurrent List (which has at present 52 subjects, originally 47 subjects), the Parliament has overriding powers, that is, the law of Parliament prevails over the law of the state legislature in case of a conflict

between the two.

The Constitution also empowers the Parliament to make laws on the subjects enumerated in the State List (which at present has 61 subjects, originally 66 subjects) under the following five abnormal circumstances:

- (a) when Rajya Sabha passes a resolution to that effect.
- (b) when a proclamation of National Emergency is in operation.
- (c) when two or more states make a joint request to the Parliament.
- (d) when necessary to give effect to international agreements, treaties and conventions.
- (e) when President's Rule is in operation in the state.

All the ordinances issued by the president (during the recess of the Parliament) must be approved by the Parliament within six weeks after its reassembly. An ordinance becomes inoperative if it is not approved by the parliament within that period.

The Parliament makes laws in a skeleton form and authorises the Executive to make detailed rules and regulations within the framework of the parent law. This is known as **delegated legislation** or executive legislation or subordinate legislation. Such rules and regulations are placed before the Parliament for its examination.

## **2. Executive Powers and Functions**

The Constitution of India established a parliamentary form of government in which the Executive is responsible to the Parliament for its policies and acts. Hence, the Parliament exercises control over the Executive through question-hour, zero hour, half-an-hour discussion, short duration discussion, calling attention motion, adjournment motion, no-confidence motion, censure motion and other discussions. It also supervises the activities of the Executive with the help of its committees like committee on government assurance, committee on subordinate legislation, committee on petitions, etc.

The ministers are collectively responsible to the Parliament in general and to the Lok Sabha in particular. As a part of collective responsibility, there is individual responsibility, that is, each minister is individually responsible for the efficient administration of the ministry under his charge. This means that they continue in office so long as they enjoy the confidence of the majority

members in the Lok Sabha. In other words, the council of ministers can be removed from office by the Lok Sabha by passing a no-confidence motion. The Lok Sabha can also express lack of confidence in the government in the following ways:

- (a) By not passing a motion of thanks on the President's inaugural address.
- (b) By rejecting a money bill.
- (c) By passing a censure motion or an adjournment motion.
- (d) By defeating the government on a vital issue.
- (e) By passing a cut motion.

Therefore, "the first function of Parliament can be said to be to select the group which is to form the government, support and sustain it in power so long as it enjoys its confidence, and to expel it when it ceases to do so, and leave it to the people to decide at the next general election."<sup>23</sup>

### **3. Financial Powers and Functions**

No tax can be levied or collected and no expenditure can be incurred by the Executive except under the authority and with the approval of Parliament. Hence, the budget is placed before the Parliament for its approval. The enactment of the budget by the Parliament legalises the receipts and expenditure of the government for the ensuing financial year.

The Parliament also scrutinises government spending and financial performance with the help of its financial committees. These include public accounts committee, estimates committee and committee on public undertakings. They bring out the cases of illegal, irregular, unauthorised, improper usage and wastage and extravagance in public expenditure.

Therefore, the parliamentary control over the Executive in financial matters operates in two stages:

- (a) budgetary control, that is, control before the appropriation of grants through the enactment of the budget; and
- (b) post-budgetary control, that is, control after the appropriation of grants through the three financial committees.

The budget is based on the principle of annuality, that is, the Parliament grants money to the government for one financial year. If the granted money is not spent by the end of the financial year, then the balance expires and

returns to the Consolidated Fund of India. This practice is known as the ‘rule of lapse’. It facilitates effective financial control by the Parliament as no reserve funds can be built without its authorisation. However, the observance of this rule leads to heavy rush of expenditure towards the close of the financial year. This is popularly called as ‘March Rush’.

## 4. Constituent Powers and Functions

The Parliament is vested with the powers to amend the Constitution by way of addition, variation or repeal of any provision. The major part of the Constitution can be amended by the Parliament with special majority, that is, a majority (that is, more than 50 per cent) of the total membership of each House and a majority of not less than two-thirds of the members present and voting in each House. Some other provisions of the Constitution can be amended by the Parliament with simple majority, that is, a majority of the members present and voting in each House of Parliament. Only a few provisions of the Constitution can be amended by the Parliament (by special majority) and with the consent of at least half of the state Legislatures (by simple majority). However, the power to initiate the process of the amendment of the Constitution (in all the three cases) lies exclusively in the hands of the Parliament and not the state legislature. There is only one exception, that is, the state legislature can pass a resolution requesting the Parliament for the creation or abolition of the legislative council in the state. Based on the resolution, the Parliament makes an act for amending the Constitution to that effect. To sum up, the Parliament can amend the Constitution in three ways:

- (a) By simple majority;
- (b) By special majority; and
- (c) By special majority but with the consent of half of all the state legislatures.

The constituent power of the Parliament is not unlimited; it is subject to the ‘basic structure’ of the Constitution. In other words, the Parliament can amend any provision of the Constitution except the ‘basic features’ of the Constitution. This was ruled by the Supreme Court in the *Kesavananda Bharati* case (1973) and reaffirmed in the *Minerva Mills* case (1980)<sup>24</sup>.

## **5. Judicial Powers and Functions**

The judicial powers and functions of the Parliament include the following:

- (a) It can impeach the President for the violation of the Constitution.
- (b) It can remove the Vice-President from his office.
- (c) It can recommend the removal of judges (including chief justice) of the Supreme Court and the high courts, chief election commissioner, comptroller and auditor general to the president.
- (d) It can punish its members or outsiders for the breach of its privileges or its contempt.

## **6. Electoral Powers and Functions**

The Parliament participates in the election of the President (along with the state legislative assemblies) and elects the Vice-President. The Lok Sabha elects its Speaker and Deputy Speaker, while the Rajya Sabha elects its Deputy Chairman.

The Parliament is also authorised to make laws to regulate the elections to the offices of President and Vice-President, to both the Houses of Parliament and to both the Houses of state legislature. Accordingly, Parliament enacted the Presidential and Vice-Presidential Election Act (1952), the Representation of People Act (1950), the Representation of People Act (1951), etc.

## **7. Other Powers and Functions**

The various other powers and functions of the Parliament include:

- (a) It serves as the highest deliberative body in the country. It discusses various issues of national and international significance.
- (b) It approves all the three types of emergencies (national, state and financial) proclaimed by the President.
- (c) It can create or abolish the state legislative councils on the recommendation of the concerned state legislative assemblies.
- (d) It can increase or decrease the area, alter the boundaries and change the names of states of the Indian Union.



- (e) It can regulate the organisation and jurisdiction of the Supreme Court and high courts and can establish a common high court for two or more states.

## INEFFECTIVENESS OF PARLIAMENTARY CONTROL

The parliamentary control over government and administration in India is more theoretical than practical. In reality, the control is not as effective as it ought to be. The following factors are responsible for this:

- (a) The Parliament has neither time nor expertise to control the administration which has grown in volume as well as complexity.
- (b) Parliament's financial control is hindered by the technical nature of the demands for grants. The parliamentarians being laymen cannot understand them properly and fully.
- (c) The legislative leadership lies with the Executive and it plays a significant role in formulating policies.
- (d) The very size of the Parliament is too large and unmanageable to be effective.
- (e) The majority support enjoyed by the Executive in the Parliament reduces the possibility of effective criticism.
- (f) The financial committees like Public Accounts Committee examines the public expenditure after it has been incurred by the Executive. Thus, they do post mortem work.
- (g) The increased recourse to 'guillotine' reduced the scope of financial control.
- (h) The growth of 'delegated legislation' has reduced the role of Parliament in making detailed laws and has increased the powers of bureaucracy.
- (i) The frequent promulgation of ordinances by the president dilutes the Parliament's power of legislation.
- (j) The Parliament's control is sporadic, general and mostly political in nature.
- (k) Lack of strong and steady opposition in the Parliament, and a setback in the parliamentary behaviour and ethics, have also contributed to the ineffectiveness of legislative control over administration in India.

## POSITION OF RAJYA SABHA

The Constitutional position of the Rajya Sabha (as compared with the Lok Sabha) can be studied from three angles:

1. Where Rajya Sabha is equal to Lok Sabha.
2. Where Rajya Sabha is unequal to Lok Sabha.
3. Where Rajya Sabha has special powers that are not at all shared with the Lok Sabha.

## **Equal Status with Lok Sabha**

In the following matters, the powers and status of the Rajya Sabha are equal to that of the Lok Sabha:

1. Introduction and passage of ordinary bills.
2. Introduction and passage of Constitutional amendment bills.
3. Introduction and passage of financial bills involving expenditure from the Consolidated Fund of India.
4. Election and impeachment of the president.
5. Election and removal of the Vice-President. However, Rajya Sabha alone can initiate the removal of the vice-president. He is removed by a resolution passed by the Rajya Sabha by a special majority and agreed to by the Lok Sabha by a simple majority.
6. Making recommendation to the President for the removal of Chief Justice and judges of Supreme Court and high courts, chief election commissioner and comptroller and auditor general.
7. Approval of ordinances issued by the President.
8. Approval of proclamation of all three types of emergencies by the President.
9. Selection of ministers including the Prime Minister. Under the Constitution, the ministers including the Prime Minister can be members of either House. However, irrespective of their membership, they are responsible only to the Lok Sabha.
10. Consideration of the reports of the constitutional bodies like Finance Commission, Union Public Service Commission, comptroller and auditor general, etc.
11. Enlargement of the jurisdiction of the Supreme Court and the Union Public Service Commission.

## **Unequal Status with Lok Sabha**

In the following matters, the powers and status of the Rajya Sabha are unequal to that of the Lok Sabha:

1. A Money Bill can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2. Rajya Sabha cannot amend or reject a Money Bill. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations.
3. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
4. A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
5. The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
6. The Speaker of Lok Sabha presides over the joint sitting of both the Houses.
7. The Lok Sabha with greater number wins the battle in a joint sitting except when the combined strength of the ruling party in both the Houses is less than that of the opposition parties.
8. Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha).
9. A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
10. The Rajya Sabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticise the policies and activities of the government.

## **Special Powers of Rajya Sabha**

Due to its federal character, the Rajya Sabha has been given two exclusive or special powers that are not enjoyed by the Lok Sabha:

1. It can authorise the Parliament to make a law on a subject enumerated in

the State List (Article 249).

2. It can authorise the Parliament to create new All-India Services common to both the Centre and states (Article 312).

An analysis of the above points makes it clear that the position of the Rajya Sabha in our constitutional system is not as weak as that of the House of Lords in the British constitutional system nor as strong as that of the Senate in the American constitutional system. Except in financial matters and control over the council of ministers, the powers and status of the Rajya Sabha in all other spheres are broadly equal and coordinate with that of the Lok Sabha.

Even though the Rajya Sabha has been given less powers as compared with the Lok Sabha, its utility is supported on the following grounds:

1. It checks hasty, defective, careless and ill-considered legislation made by the Lok Sabha by making provision of revision and thought.
2. It facilitates giving representation to eminent professionals and experts who cannot face the direct election. The President nominates 12 such persons to the Rajya Sabha.
3. It maintains the federal equilibrium by protecting the interests of the states against the undue interference of the Centre.

## PARLIAMENTARY PRIVILEGES

### Meaning

Parliamentary privileges are special rights, immunities and exemptions enjoyed by the two Houses of Parliament, their committees and their members. They are necessary in order to secure the independence and effectiveness of their actions. Without these privileges, the Houses can neither maintain their authority, dignity and honour nor can protect their members from any obstruction in the discharge of their parliamentary responsibilities.

The Constitution has also extended the parliamentary privileges to those persons who are entitled to speak and take part in the proceedings of a House of Parliament or any of its committees. These include the attorney general of India and Union ministers.

It must be clarified here that the parliamentary privileges do not extend to the president who is also an integral part of the Parliament.

## Classification

Parliamentary privileges can be classified into two broad categories:

1. those that are enjoyed by each House of Parliament collectively, and
2. those that are enjoyed by the members individually.

**Collective Privileges** The privileges belonging to each House of Parliament collectively are:

1. It has the right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same. The 44th Amendment Act of 1978 restored the freedom of the press to publish true reports of parliamentary proceedings without prior permission of the House. But this is not applicable in the case of a secret sitting of the House.
2. It can exclude strangers from its proceedings and hold secret sittings to discuss some important matters.
3. It can make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters.
4. It can punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment (also suspension or expulsion, in case of members).<sup>25</sup>
5. It has the right to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member.
6. It can institute inquiries and order the attendance of witnesses and send for relevant papers and records.
7. The courts are prohibited to inquire into the proceedings of a House or its committees.
8. No person (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the presiding officer.

**Individual Privileges** The privileges belonging to the members individually are:

1. They cannot be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session. This privilege is available only in civil cases and not in criminal cases or preventive detention cases.
2. They have freedom of speech in Parliament. No member is liable to any proceedings in any court for anything said or any vote given by him in Parliament or its committees. This freedom is subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of Parliament.<sup>26</sup>
3. They are exempted from jury service. They can refuse to give evidence and appear as a witness in a case pending in a court when Parliament is in session.

## **Breach of Privilege and Contempt of the House**

“When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member individually or of the House in its collective capacity, the offence is termed as breach of privilege and is punishable by the House.”<sup>27</sup>

Any act or omission which obstructs a House of Parliament, its member or its officer in the performance of their functions or which has a tendency, directly or indirectly to produce results against the dignity, authority and honour of the House is treated as a contempt of the House.<sup>28</sup>

Though the two phrases, ‘breach of privilege’ and ‘contempt of the House’ are used interchangeably, they have different implications. ‘Normally, a breach of privilege may amount to contempt of the House. Likewise, contempt of the House may include a breach of privilege also. Contempt of the House, however, has wider implications. There may be a contempt of the House without specifically committing a breach of privilege’.<sup>29</sup> Similarly, ‘actions which are not breaches of any specific privilege but are offences against the dignity and authority of the House amount to contempt of the House’.<sup>30</sup> For example, disobedience to a legitimate order of the House is not a breach of privilege, but can be punished as contempt of the House.

## **Sources of Privileges**

Originally, the Constitution (Article 105) expressly mentioned two privileges, that is, freedom of speech in Parliament and right of publication of its proceedings. With regard to other privileges, it provided that they were to be the same as those of the British House of Commons, its committees and its members on the date of its commencement (ie, 26 January, 1950), until defined by Parliament. The 44th Amendment Act of 1978 provided that the other privileges of each House of Parliament, its committees and its members are to be those which they had on the date of its commencement (ie, 20 June, 1979), until defined by Parliament. This means that the position with regard to other privileges remains same. In other words, the amendment has made only verbal changes by dropping a direct reference to the British House of Commons, without making any change in the implication of the provision.<sup>31</sup>

It should be noted here that the Parliament, till now, has not made any special law to exhaustively codify all the privileges. They are based on five sources, namely,

1. Constitutional provisions,
2. Various laws made by Parliament,
3. Rules of both the Houses,
4. Parliamentary conventions, and
5. Judicial interpretations.

## SOVEREIGNTY OF PARLIAMENT

The doctrine of ‘sovereignty of Parliament’ is associated with the British Parliament. Sovereignty means the supreme power within the State. That supreme power in Great Britain lies with the Parliament. There are no ‘legal’ restrictions on its authority and jurisdiction.

Therefore, the sovereignty of Parliament (parliamentary supremacy) is a cardinal feature of the British constitutional system. According to AV Dicey, the British jurist, this principle has three implications:<sup>32</sup>

1. The Parliament can make, amend, substitute or repeal any law. De Lolme, a British political analyst, said, ‘The British Parliament can do every thing except make a woman a man and a man a woman’.
2. The Parliament can make constitutional laws by the same procedure as ordinary laws. In other words, there is no legal distinction between the



constituent authority and the legislative authority of the British Parliament.

3. The Parliamentary laws cannot be declared invalid by the Judiciary as being unconstitutional. In other words, there is no system of judicial review in Britain.

The Indian Parliament, on the other hand, cannot be regarded as a sovereign body in the similar sense as there are ‘legal’ restrictions on its authority and jurisdiction. The factors that limit the sovereignty of Indian Parliament are:

## 1. Written Nature of the Constitution

The Constitution is the fundamental law of the land in our country. It has defined the authority and jurisdiction of all the three organs of the Union government and the nature of interrelationship between them. Hence, the Parliament has to operate within the limits prescribed by the Constitution. There is also a legal distinction between the legislative authority and the constituent authority of the Parliament. Moreover, to effect certain amendments to the Constitution, the ratification of half of the states is also required. In Britain, on the other hand, the Constitution is neither written nor there is anything like a fundamental law of the land.

**Table 22.5** *Allocation of Seats in Parliament*

<i>S.No.</i>	<i>States/UTs</i>	<i>No. of Seats in Rajya Sabha</i>	<i>No. of Seats in Lok Sabha</i>
<b>I. States</b>			
1.	Andhra Pradesh	11	25
2.	Arunachal Pradesh	1	2
3.	Assam	7	14
4.	Bihar	16	40
5.	Chhattisgarh	5	11

6.	Goa	1	2
7.	Gujarat	11	26
8.	Haryana	5	10
9.	Himachal Pradesh	3	4
10.	Jammu and Kashmir	4	6
11.	Jharkhand	6	14
12.	Karnataka	12	28
13.	Kerala	9	20
14.	Madhya Pradesh	11	29
15.	Maharashtra	19	48
16.	Manipur	1	2
17.	Meghalaya	1	2
18.	Mizoram	1	1
19.	Nagaland	1	1
20.	Odisha	10	21
21.	Punjab	7	13
22.	Rajasthan	10	25
23.	Sikkim	1	1
24.	Tamil Nadu	18	39
25.	Telangana	7	17
26.	Tripura	1	2
27.	Uttarakhand	3	5
28.	Uttar Pradesh	31	80
29.	West Bengal	16	42

## II. Union Territories

1.	Andaman and Nicobar Islands	—	1
2.	Chandigarh	—	1
3.	Dadra and Nagar Haveli	—	1
4.	Daman and Diu	—	1
5.	Delhi (The National Capital Territory of Delhi)	3	7
6.	Lakshadweep	—	1
7.	Puducherry	1	1
<b>III. Nominated members</b>		12	2
	<b>Total</b>	<b>245</b>	<b>545</b>

**Table 22.6** *Seats Reserved for SCs and STs in the Lok Sabha*

<i>Name of the State/Union Territory</i>		<i>Number of Seats in the House before the Delimitation in 2008</i>			<i>Number of Seats in the House after the Delimitation in 2008</i>		
		<i>Total</i>	<i>Reserved for the Scheduled Castes</i>	<i>Reserved for the Scheduled Tribes</i>	<i>Total</i>	<i>Reserved for the Scheduled Castes</i>	<i>Reserved for the Scheduled Tribes</i>
<b>I. STATES:</b>							
1.	Andhra Pradesh	42	6	2	25	4	1
2.	Arunachal Pradesh*	2	—	—	2	—	—

3.	Assam*	14	1	2	14	1	2
4.	Bihar	40	7	—	40	6	—
5.	Chhattisgarh	11	2	4	11	1	4
6.	Goa	2	—	—	2	—	—
7.	Gujarat	26	2	4	26	2	4
8.	Haryana	10	2	—	10	2	—
9.	Himachal Pradesh	4	1	—	4	1	—
10.	Jammu and Kashmir*	6	—	—	6	—	—
11.	Jharkhand@	14	1	5	14	1	5
12.	Karnataka	28	4	—	28	5	2
13.	Kerala	20	2	—	20	2	—
14.	Madhya Pradesh	29	4	5	29	4	6
15.	Maharashtra	48	3	4	48	5	4
16.	Manipur*	2	—	1	2	—	1
17.	Meghalaya	2	—	—	2	—	2
18.	Mizoram	1	—	1	1	—	1
19.	Nagaland*	1	—	—	1	—	—
20.	Odisha	21	3	5	21	3	5
21.	Punjab	13	3	—	13	4	—
22.	Rajasthan	25	4	3	25	4	3
23.	Sikkim	1	—	—	1	—	—
24.	Tamil Nadu	39	7	—	39	7	—

25.	Telangana	—	—	—	17	3	2
26.	Tripura	2	—	1	2	—	1
27.	Uttarakhand	5	—	—	5	1	—
28.	Uttar Pradesh	80	18	—	80	17	—
29.	West Bengal	42	8	2	42	10	2
<b>II. UNION TERRITORIES:</b>							
1.	Andaman and Nicobar Islands	1	—	—	1	—	—
2.	Chandigarh	1	—	—	1	—	—
3.	Dadra and Nagar Haveli	1	—	1	1	—	1
4.	Daman and Diu	1	—	—	1	—	—
5.	Delhi (The National Capital Territory of Delhi)	7	1	—	7	1	—
6.	Lakshadweep	1	—	1	1	—	1
7.	Puducherry	1	—	—	1	—	—
	<b>Total</b>	<b>543</b>	<b>79</b>	<b>41</b>	<b>543</b>	<b>84</b>	<b>47</b>

\*States excluded from Delimitation Exercise

@Order issued by the Delimitation Commission was nullified by the Sec 10 B of the Delimitation Amendment Act, 2008

**Table 22.7** *Durations of the Lok Sabha (from First Lok Sabha to Present Lok Sabha)*

<b><i>Lok Sabha</i></b>	<b><i>Duration</i></b>	<b><i>Remarks</i></b>
First	1952–1957	Dissolved 38 days before expiry of its term.
Second	1957–1962	Dissolved 40 days before expiry of its term.
Third	1962–1967	Dissolved 44 days before expiry of its term.
Fourth	1967–1970	Dissolved one year and 79 days before expiry of its term.
Fifth	1971–1977	Term of the Lok Sabha was extended two times by one year at a time. However, the House was dissolved after having been in existence for a period of five years, 10 months and six days.
Sixth	1977–1979	Dissolved after having been in existence for a period of two years, four months and 28 days.
Seventh	1980–1984	Dissolved 20 days before expiry of its term.
Eighth	1985–1989	Dissolved 48 days before expiry of its term.
Ninth	1989–1991	Dissolved after having been in existence for a period of one year, two months and 25 days.
Tenth	1991–1996	—
Eleventh	1996–1997	Dissolved after having been in existence for a period of one year, six months and 13 days.
	1998–	Dissolved after having been in existence for a

Twelfth	1999	period of one year, one month and four days.
Thirteenth	1999–2004	Dissolved 253 days before expiry of its term.
Fourteenth	2004–2009	—
Fifteenth	2009–2014	—
Sixteenth	2014–continuing	—

**Table 22.8** *Speakers of the Lok Sabha (from First Lok Sabha to Present Lok Sabha)*

<b>Lok Sabha</b>	<b>Name</b>	<b>Tenure (Remarks)</b>
First	1. Ganesh Vasudev Mavalankar	1952 to 1956 (Died)
	2. Ananthasayanam Ayyangar	1956 to 1957
Second	Ananthasayanam Ayyangar	1957 to 1962
Third	Hukum Singh	1962 to 1967
Fourth	1. Neelam Sanjiva Reddy	1967 to 1969 (Resigned)
	2. Gurdial Singh Dhillan	1969 to 1971
Fifth	1. Gurdial Singh Dhillan	1971 to 1975 (Resigned)
	2. Bali Ram Bhagat	1976 to 1977
Sixth	1. Neelam Sanjiva Reddy	1977 to 1977 (Resigned)
	2. K.S. Hegde	1977 to 1980
Seventh	Balram Jakhar	1980 to 1985
Eighth	Balram Jakhar	1985 to 1989
Ninth	Rabi Ray	1989 to 1991



Tenth	Shivraj Patil	1991 to 1996
Eleventh	P.A. Sangma	1996 to 1998
Twelfth	G.M.C. Balayogi	1998 to 1999
Thirteenth	1. G.M.C. Balayogi	1999 to 2002 (Died)
	2. Manohar Joshi	2002 to 2004
Fourteenth	Somnath Chatterjee	2004 to 2009
Fifteenth	Ms. Meira Kumar	2009 – 2014
Sixteenth	Ms. Sumitra Mahajan	2014 – till date

**Table 22.9** *Articles Related to Parliament at a Glance*

<b>Article No.</b>	<b>Subject Matter</b>
<b>General</b>	
79.	Constitution of Parliament
80.	Composition of the Council of States
81.	Composition of the House of the People
82.	Readjustment after each census
83.	Duration of Houses of Parliament
84.	Qualification for membership of Parliament
85.	Sessions of Parliament, prorogation and dissolution
86.	Right of President to address and send messages to Houses
87.	Special address by the President
88.	Rights of Ministers and Attorney-General as respects Houses
<b>Officers of Parliament</b>	
89.	The Chairman and Deputy Chairman of the Council of States

90.	Vacation and resignation of, and removal from, the office of Deputy Chairman
91.	Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman
92.	The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration
93.	The Speaker and Deputy Speaker of the House of the People
94.	Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker
95.	Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker
96.	The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration
97.	Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker
98.	Secretariat of Parliament
<b>Conduct of Business</b>	
99.	Oath or affirmation by members
100.	Voting in Houses, power of Houses to act notwithstanding vacancies and quorum
<b>Disqualifications of Members</b>	
101.	Vacation of seats
102.	Disqualifications for membership
103.	Decision on questions as to disqualifications of members
104.	Penalty for sitting and voting before making oath or affirmation under Article 99 or when not qualified or when disqualified
<b>Powers, Privileges and Immunities of Parliament and its Members</b>	

105.	Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof
106.	Salaries and allowances of members
<b>Legislative Procedure</b>	
107.	Provisions as to introduction and passing of Bills
108.	Joint sitting of both Houses in certain cases
109.	Special procedure in respect of Money Bills
110.	Definition of “Money Bills”
111.	Assent to Bills
<b>Procedures in Financial Matters</b>	
112.	Annual financial statement
113.	Procedure in Parliament with respect to estimates
114.	Appropriation Bills
115.	Supplementary, additional or excess grants
116.	Votes on account, votes of credit and exceptional grants
117.	Special provisions as to financial Bills
<b>Procedure Generally</b>	
118.	Rules of procedure
119.	Regulation by law of procedure in Parliament in relation to financial business
120.	Language to be used in Parliament
121.	Restriction on discussion in Parliament
122.	Courts not to inquire into proceedings of Parliament
<b>Legislative Powers of the President</b>	
	Power of President to promulgate Ordinances during recess of

## 2. Federal System of Government

India has a federal system of government with a constitutional division of powers between the Union and the states. Both have to operate within the spheres allotted to them. Hence, the law-making authority of the Parliament gets confined to the subjects enumerated in the Union List and Concurrent List and does not extend to the subjects enumerated in the State List (except in five abnormal circumstances and that too for a short period). Britain, on the other hand, has a unitary system of government and hence, all the powers are vested in the Centre.

## 3. System of Judicial Review

The adoption of an independent Judiciary with the power of judicial review also restricts the supremacy of our Parliament. Both the Supreme Court and high courts can declare the laws enacted by the Parliament as void and *ultra vires* (unconstitutional), if they contravene any provision of the Constitution. On the other hand, there is no system of judicial review in Britain. The British Courts have to apply the Parliamentary laws to specific cases, without examining their constitutionality, legality or reasonableness.

## 4. Fundamental Rights

The authority of the Parliament is also restricted by the incorporation of a code of justiciable fundamental rights under Part III of the Constitution. Article 13 prohibits the State from making a law that either takes away totally or abrogates in part a fundamental right. Hence, a Parliamentary law that contravenes the fundamental rights shall be void. In Britain, on the other hand, there is no codification of justiciable fundamental rights in the Constitution. The British Parliament has also not made any law that lays down the fundamental rights of the citizens. However, it does not mean that the British citizens do not have rights. Though there is no charter guaranteeing rights, there is maximum liberty in Britain due to the existence of the Rule of Law.

Therefore, even though the nomenclature and organisational pattern of our Parliament is similar to that of the British Parliament, there is a substantial difference between the two. The Indian Parliament is not a sovereign body in the sense in which the British Parliament is a sovereign body. Unlike the British Parliament, the authority and jurisdiction of the Indian Parliament are defined, limited and restrained.

In this regard, the Indian Parliament is similar to the American Legislature (known as Congress). In USA also, the sovereignty of Congress is legally restricted by the written character of the Constitution, the federal system of government, the system of judicial review and the Bill of Rights.

## NOTES AND REFERENCES

1. Westminster is a place in London where the British Parliament is located. It is often used as a symbol of the British Parliament.
2. See [Table 22.5](#) at the end of this chapter.
3. An Anglo-Indian is a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of par-ents habitually resident therein and not merely established there for temporary purposes.
4. See [Table 22.5](#) at the end of this chapter.
5. This means that the number of Lok Sabha seats reserved in a state or union territory for such castes and tribes is to bear the same proportion to the total number of seats allotted to that state or union territory in the Lok Sabha as the population of such castes and tribes in the concerned state or union territory bears to the total population of state or union territory.
6. Under this, the president has made the Rajya Sabha (Term of Office of Members) Order, 1952.
7. The term of the fifth Lok Sabha that was to expire on 18 March, 1976, was extended by one year upto 18 March, 1977 by the House of the People (Extension of Duration) Act, 1976. It was extended for a further period of one year up to 18 March, 1978 by the House of the People (Extension of Duration) Amendment Act, 1976. However, the House was dissolved on 18 January 1977, after having been in existence for a period of five years, 10 months and six days.

8. A minister in the Union or state government is not considered as holding the office of profit. Also, the Parliament can declare that a particular office of profit will not disqualify its holder from parliamentary membership.
9. According to the Prohibition of Simultaneous Membership Rules (1950) made by the President.
- 9a. Section 3 of the Salaries and Allowances of Officers of Parliament Act, 1953 (as amended).
- 9b. Ibid
- 9c. Ibid
- 9a. Ibid
- 9e. Section 5 of the Salaries and Allowances of Officers of Parliament Act, 1953 (as amended).
- 9f. Ibid
10. *Kihota Hollohan Vs. Zachilhu* (1992).
11. In this context, V V Giri observed: “The holder of an office provided with such extensive authority and power must discharge the duties of his office impartially. So impartiality is regarded as an indispensable condition of the office of the Speaker, who is the guardian of the powers and privileges of the House and not of the political party with whose support he might have been elected to the office. It is not possible for him to maintain order in the House unless he enjoys the confidence of the minority parties by safeguarding their rights and privileges”. (‘Powers of the Presiding Officers in Indian Legislature’ in *Journal of Constitutional and Parliamentary Studies*, New Delhi, Vol II, No. 4, Oct-Dec. 1968, p. 22)
12. For example, in the 13th Lok Sabha, Mr Indrajit Gupta was appointed as Speaker *Pro Tem* on 20 October 1999 and remained in that office till 22 October 1999 when the new Speaker, Mr G M C Balayogi was elected.
13. Under Article 107 (3) of the Constitution, a bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.  
Under Rule 336 of the Lok Sabha, a motion, resolution or an amendment, which has been moved and is pending in the House, shall not lapse by reason only of the prorogation of the House.
14. Subhash C Kashyap: *Our Parliament*, National Book Trust, 1999 Edition, P. 135–136.
15. J C Johari: *Indian Government and Politics*, Vishal, Volume II, Thirteenth Edition, 2001, P. 360.

16. Subhash C Kashyap: *Our Parliament*, National Book Trust, 1999 Edition, P. 139–141.
17. Ibid, P. 139.
18. Under Rule 64 of Lok Sabha, the Speaker may, on request being made to him, order the publication of any bill in the Gazette, although no motion has been made for leave to introduce the bill. In that case, it shall not be necessary to move for leave to introduce the bill and if the bill is afterwards introduced, it shall not be necessary to publish it again.
19. For different kinds of veto, see ‘Veto Power of the President’ under Chapter 17.
20. The Lok Sabha did not agree to the amendments made by the Rajya Sabha. A joint sitting was held on 6 May 1961.
21. The bill was passed by the Lok Sabha but rejected by the Rajya Sabha. A joint sitting was held on 16 May 1978.
22. The bill was passed by the Lok Sabha but rejected by the Rajya Sabha. A joint sitting was held on 26 March 2002. The bill was passed when 425 members voted for it and 296 against.
23. N N Mallya: *Indian Parliament*, P. 39.
24. *Kesavananda Bharati V. State of Kerala* (1973); *Minerva Mills V. Union of India* (1980).
25. In 1977, the sixth Lok Sabha expelled Mrs. Indira Gandhi from its membership and sentenced her to jail for a week for committing a contempt of House while she was Prime Minister. But, the seventh Lok Sabha rescinded the resolution expelling her by describing it as politically motivated. In 1990, a former Minister, K K Tiwari, was reprimanded by the Rajya Sabha.
26. Article 121 of the Constitution says that no discussion shall take place in Parliament with respect to the conduct of any judge of the Supreme Court or of a high court in the discharge of his duties except upon a motion for presenting an address to the president praying for the removal of the judge. Under Rules 349 to 350 of the Lok Sabha, use of unparliamentary language or unparliamentary conduct of a member is prohibited.
27. Kaul and Shakhder: *Practice and Procedure of Parliament*, First Edition, P. 157.
28. Thomas Erskine May: *Parliamentary Practice*, 15th Edition, P. 109.
29. Subhash C. Kashyap: *Our Parliament*, National Book Trust, 1999



Edition, P. 241.

30. Thomas Erskine May: *Parliamentary Practice*, 16th Edition, P. 43.
31. The then law minister gave the following reason for dropping reference to the British House of Commons: “That the original provision—there was no escape from it—had referred to the British House of Commons. Now a proud country like India would like to avoid making any reference to a foreign insitution in its own solemn consitutional document. Therefore, this verbal change is being introduced so that there may not be any reference to a foreign institution.”
32. A V Dicey: Introduction to the Study of the Law of the Constitution, Macmillan, 1965 Edition, P. 39–40.