

Chapter - 13

PARLIAMENT

The Parliament is the legislative organ of the Union government. It occupies a pre-eminent and central position in the Indian democratic political system due to adoption of the parliamentary form of government, also known as 'Westminster' model of government.

Articles 79 to 122 in Part V of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.

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.

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.

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.

- 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.
- 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. Out of the seven union territories, only two (Delhi and Pondicherry) have representation in 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.

Composition of Lok Sabha

The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members are to be nominated by the president from the Anglo-Indian community.

At present, the Lok Sabha has 545 members. Of these, 530 members represent the states, 13 members represent the union territories and 2 Anglo-Indian members are nominated by the President.

- 1. Representation of States :** The representatives of states in the Lok Sabha are directly elected by the people from the territorial constituencies in the states. The election is based on the principle of universal adult franchise. The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.
- 2. Representation of Union Territories :** The Constitution has empowered the Parliament to prescribe the manner of choosing the representatives of the union territories in the Lok Sabha. Accordingly, the Parliament

has enacted the Union Territories (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the union territories are also chosen by direct election.

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.

SYSTEM OF ELECTIONS TO LOK SABHA

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.
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.

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.

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.

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.

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.

The 87th Amendment Act of 2003 provided for the refixing of the reserved seats on the basis of 2001 census and not 1991 census.

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.

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.

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 before the person authorised by the election commission an oath or affirmation according to the form prescribed in the Third Schedule.
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).
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 election.
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 percent 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 crime 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

1. **Double Membership :** A person cannot be a member of both Houses of Parliament at the same time.
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.
2. **Disqualification :** If a member of Parliament becomes subject to any of the disqualifications specified in the Constitution, his seat becomes vacant.
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.
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.
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.

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.

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.

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.

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).

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.

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

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.
2. He is the final interpreter of the provision 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.
5. He presides over a joint setting of the two Houses of Parliament.
6. He can allow a 'secret' sitting of the House at the request of the Leader of the House.
7. He decides whether a bill is a money bill or not and his decision on this question is final.
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.
9. He acts as the *ex-officio* chairman of the Indian Parliamentary Group of the Inter-Parliamentary Union.
10. He appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their functioning.

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.

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

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.

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 newlyelected 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.

He presides over the first sitting of the newly-elected Lok Sabha. His main duty is to administer oath to the new members.

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.

Unlike the Speaker (who is a member of the House), the Chairman is not a member of the House.

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.

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 and is nominated by the prime minister to function as the Leader of the House.

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. 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.

Whip

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.

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. 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).

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 with-out 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.

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.

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.

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.

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.

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. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.

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

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

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

The right to move a motion for an adjournment of the business of the House is subject to the following restrictions:

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

No-Confidence Motion : Article 75 of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys confidence of the majority of the members of the Lok Sabha. In other words, the Lok Sabha can remove the ministry from office by passing a no-confidence motion. The motion needs the support of 50 members to be admitted.

Motion of Thanks : The first session after each general election and the first session of every fiscal year is addressed by the president. In this address, the president outlines the policies and programmes of the government in the preceding year and ensuing year. 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.

Censure Motion

1. It should 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.
3. It is moved for censuring the council of ministers for specific policies and actions.
4. If it is passed in the Lok Sabha, the council of ministers need not resign from the office.

No-Confidence Motion

1. It need not state the reasons for its adoption in the Lok Sabha.
2. It can be moved against the entire council of ministers only.
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 must resign from office.

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'.

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.

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.

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. 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."

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, with or without recommendations. The Lok Sabha can either accept or reject all or any of the recommendations of the Rajya Sabha.

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.

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)

The 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.

JOINT SITTING OF TWO HOUSES

Joint sitting is an extraordinary machinery provided by the Constitution to resolve a dead-lock 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.

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.
2. Banking Service Commission (Repeal) Bill, 1977.
3. Prevention of Terrorism Bill, 2002.

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 railways 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).

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.

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.

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'.

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.

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.

Other Grants

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.

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. Reappropriation involves transfer of funds from one head to another. It does not involve any additional expenditure.

FUNDS

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 be 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.

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).

COMMITTEES OF PARLIAMENT

Public Accounts Committee

This committee was setup first in 1921 under the provisions of the Government of India Act of 1919 and has since been in existence. At present, it consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha). The term of office of the members is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members. Until 1966–67, the chairman of the committee belonged to the ruling party. However, since 1967 a convention has developed whereby the chairman of the committee is selected invariably from the Opposition.

The function of the committee is to examine the annual audit reports of the comptroller and auditor general of India (CAG).

The functions of the Committee are:

1. To examine the appropriation accounts and the finance accounts of the Union government and any other accounts laid before the Lok Sabha.
2. In scrutinising the appropriation accounts and the audit report of CAG on it, the Committee has to satisfy itself that:
 - (a) the money that has been disbursed was legally available for the applied service or purpose;
 - (b) the expenditure conforms to the authority that governs it; and
 - (c) every reappropriation has been made in accordance with the related rules.
3. To examine the accounts of state corporations, trading concerns and manufacturing projects and the audit report of CAG on them

Estimates Committee

The origin of this committee can be traced to the standing financial committee set up in 1921. The first Estimates Committee in the post-independence era was constituted in 1950 on the recommendation of John Mathai. Originally, it had 25 members but in 1956 its membership was raised to 30. All the thirty members are from Lok Sabha only. The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party.

It has been described as a 'continuous economy committee.'

1. To report what economies, improvements in organisation, efficiency and administrative reform consistent with the policy underlying the estimates, can be affected.

2. To suggest alternative policies in order to bring about efficiency and economy in administration.
3. To examine whether the money is well laid out within the limits of the policy implied in the estimates.
4. To suggest the form in which the estimates are to be presented to Parliament.

Committee on Public Undertakings

This committee was created in 1964 on the recommendation of the Krishna Menon Committee. In 1974, its membership was raised to 22 (15 from the Lok Sabha and 7 from the Rajya Sabha). A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.

The functions of the committee are:

1. To examine the reports and accounts of public undertakings.
2. To examine the reports of the comptroller and auditor general on public undertakings.

Departmental Standing Committees

On the recommendation of the Rules Committee of the Lok Sabha, 17 departmentally related standing committees were set-up in 1993. In 2004, seven more such committees were set-up, thus increasing their number from 17 to 24.

The main objective is to secure more accountability of the Executive to the Parliament, particularly financial accountability.

Each standing committee consists of 31 members (21 from Lok Sabha and 10 from Rajya Sabha).

A minister is not eligible to be nominated as a member of any of the standing committee.

Out of the 24 standing committees, 8 committees work under the Rajya Sabha and 16 committees work under the Lok Sabha.

Business Advisory Committee

It regulates the programme and time table of the House. It allocates time for the transaction of legislative and other business brought before the House by the government. The Lok Sabha committee consists of 15 members including the Speaker as its chairman. In the Rajya Sabha, it has 11 members including the Chairman as its *ex-officio* chairman.

Committee on Government Assurances

It examines the assurances, promises and undertakings given by ministers from time to time on the floor of the House and reports on the extent to which they have been implemented. In the Lok Sabha, it consists of 15 members and in the Rajya Sabha, it consists of 10 members. It was constituted in 1953.

Committee on Subordinate Legislation

It examines and reports to the House whether the powers to make regulations, rules, sub-rules and bye-laws delegated by the Parliament or conferred by the Constitution to the Executive are being properly exercised by it. In both the House, the committee consists of 15 members. It was constituted in 1953.

PARLIAMENTARY PRIVILEGES

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.

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

Collective Privileges

1. It has the right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same.
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.
5. 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

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.
3. They are exempted from jury service.

| <i>Sl. No.</i> | <i>States/UTs</i> | <i>No. of Seats in Rajya Sabha</i> | <i>No. of Seats in Lok Sabha</i> |
|------------------------------|------------------------------|------------------------------------|----------------------------------|
| I. States | | | |
| 1. | Andhra Pradesh | 18 | 42 |
| 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. | Orissa | 10 | 21 |
| 21. | Punjab | 7 | 13 |
| 22. | Rajasthan | 10 | 25 |
| 23. | Sikkim | 1 | 1 |
| 24. | Tamil Nadu | 18 | 39 |
| 25. | Tripura | 1 | 2 |
| 26. | Uttaranchal | 3 | 5 |
| 27. | Uttar Pradesh | 31 | 80 |
| 28. | West Bengal | 16 | 42 |
| II. Union Territories | | | |
| 1. | Andman and Nicobar Islands — | | 1 |
| 2. | Chandigarh | — | 1 |
| 3. | Dadra and NagarHaveli | — | 1 |

| | | | | |
|-------------------------------|-------------------------------------------------|------------|------------|----------|
| 4. | Daman and Diu | — | 1 | |
| 5. | Delhi (The National Capital Territory of Delhi) | 3 | 7 | |
| 6. | Lakshadweep | — | 1 | |
| 7. | Pondicherry | 1 | 1 | |
| III. Nominated members | | 12 | 2 | |
| a | Total | 245 | 545 | a |

